

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,) CRIMINAL CASE NO.
Plaintiff,) RDB-20-139
vs.) JURY TRIAL DAY 8
) KIARA HAYNES (CONT.)
ANDRE RICARDO BRISCOE,) SERGEANT EDWARD HOWARD
Defendant.) JENNIFER BENTON, BRIAN LEWIS
DAVID AZUR, TONYA HARRIS

BEFORE THE HONORABLE RICHARD D. BENNETT
UNITED STATES DISTRICT JUDGE
THURSDAY, JUNE 2, 2022
BALTIMORE, MARYLAND

For the Plaintiff:
Dana Brusca, AUSA

Paul Budlow, AUSA

For the Defendant:
Teresa Whalen, Esq.

William Purpura, Esq.

Also Present: Javon Weaver, Special Agent ATF

Jeffrey Kelly, Special Agent, FBI

Andrew Murray, Paralegal

Robert Cadle, Paralegal

(Computer-aided transcription of stenotype notes.)

Reported by:

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P R O C E E D I N G S

THE CLERK: The United States District Court for the District of Maryland is now in session. The Honorable Richard D. Bennett is presiding.

THE COURT: Good morning, everyone.

(Collective greetings.)

THE COURT: As I understand it, we still have Ms. Haynes out of the courtroom here, and I understand we have an evidentiary issue essentially with respect to a transcript of a May 9, 2015, telephone call between Kiara Haynes and Shawn Gardner. And I have Mr. Demetriou, my law clerk, he's been doing a wonderful job on this case, presented to me two different variations, and I don't see what the variations are. You all have to alert me to what the variations are.

MR. BUDLOW: Yes. Happy to do that, Your Honor.

THE COURT: I read through it, but I don't have time to try to read line by line, but apparently, just show me, Mr. Budlow, what the dispute is.

MR. BUDLOW: Sure. If you go to page 2 --

THE COURT: Yes.

MR. BUDLOW: -- the second to last box.

THE COURT: Okay. Hold on a second. Okay. We're at...

MR. BUDLOW: The last line and a couple of words at the very bottom of the larger paragraph, where it ends with

1 "Set the house on fire," and then it starts with, "Come on,
2 run."

3 **THE COURT:** Okay. I see "set the house on fire."
4 And the Defense version says, "Come on, run. Get away. When
5 I tell you to run, you stupid MFer, run."

6 **MR. BUDLOW:** Right.

7 **THE COURT:** And the Government's doesn't have that,
8 and it's --

9 **MR. BUDLOW:** Right. That's the only difference that
10 we object to, and I don't want to spend too long with that. I
11 do --

12 **THE COURT:** You don't think that's an accurate --

13 **MR. BUDLOW:** No, it's not that it's not accurate.
14 We don't think it's relevant. So last night when we were
15 reviewing the transcript, and very late last night, we
16 identified a few areas of dispute, and I just want to point
17 out that, as has been the case throughout this case, Defense
18 was very professional. We're able to communicate --

19 **THE COURT:** I understand.

20 **MR. BUDLOW:** -- and resolve all of the issues but
21 this one. So this one issue remains.

22 Very briefly, Your Honor, this is the Government's
23 position on this issue. Ms. Haynes, during this call, is with
24 another person, physically, where she is. Earlier in the
25 call, it seemed pretty clear that that's one of her children.

1 During this call where it ends with "Set the house on fire" at
2 that moment when she says, "Set the house on fire," there's no
3 doubt she is speaking to Mr. Gardner.

4 However, when she then says, "Come on, run. Get away.
5 When I tell you to run," et cetera, she's speaking to another
6 person, and if you continue to listen after that, which is not
7 in any of these transcripts, she continues to complain that
8 that person, despite her being where she was, and a car
9 coming, that person ran across the street. And so even if it
10 isn't her child, which we think from context it is, and she's
11 speaking to in a particularly harsh way, it has -- this line,
12 in the Government's view, "Come on, run, et cetera," just
13 isn't relevant to the rest of the call regardless of who she's
14 speaking to.

15 **THE COURT:** And it would be your -- the view of the
16 Government is it would be confusing in the context of the
17 conversation between Haynes and Gardner, because it's not
18 really directed at Gardner in any way, those words.

19 **MR. BUDLOW:** Right. We think it would be confusing,
20 and we also think that it would paint -- I mean, it's hard to
21 paint this particular witness in a negative light more so than
22 the facts are. However, now we're getting into her parenting
23 and her cursing at her children, and that does not seem to be
24 relevant.

25 **THE COURT:** Well, as to that, the Defense is free to

1 attack the credibility of Kiara Haynes in terms of any of her
2 emotional issues or lack thereof, but I guess Ms. -- that's a
3 separate matter, but in terms of, "Come on, run. Get away.
4 When I tell you to run, you stupid MFer, run," it's in the
5 context of a person she was with, and she's directing that to
6 someone else and not Mr. Gardner, according to the Government.

7 Is that reasonably a correct position from your point of
8 view?

9 **MS. WHALEN:** I included that, because I think that
10 it seems as if she's telling herself -- she's walking herself
11 off the ledge. She's telling Gardner that she was going
12 across the street trying to make sure that she did not do what
13 she was intending to do, which was burn the house down. And
14 so I think we have a dispute as to the relevance.

15 Beyond that, I think --

16 **THE COURT:** Well, I just -- I understand. "Set the
17 house on fire," everyone agrees up to that point. "Come on,
18 run, get away. When I tell you to run, et cetera," the
19 Government proffered that has nothing to do with her
20 conversation with Gardner. It's not directed to him in any
21 way at all. She's talking to someone else.

22 **MS. WHALEN:** And I think that that is something they
23 can bring out in her testimony.

24 **THE COURT:** Well, is that correct or not?

25 **MS. WHALEN:** No, I don't think it is correct. I

1 think she's talking --

2 **THE COURT:** Well, then I'll have to listen to it and
3 I'll determine whether it's correct or not, and if so, I'll
4 strike it. I mean, that's --

5 **MS. WHALEN:** That's fine.

6 **THE COURT:** -- that's confusing and it's not -- it's
7 confusing and it's not the purpose of the Court to have the
8 jury be confused. So if you want, I'll listen to it right
9 now.

10 **MS. WHALEN:** Your Honor, that's fine. An
11 alternative theory, however, I -- well, an alternative theory
12 is that it is talking -- if she's actually talking about
13 stalking and murdering people with her son there, it does go
14 to an emotional -- a lack of emotion.

15 **THE COURT:** Well, I'm just going to the language of
16 the tape, first of all, the transcript.

17 **MS. WHALEN:** Sure.

18 **THE COURT:** If it is abundantly clear to me --
19 apparently the Government says it is abundantly clear. The
20 Defense is not willing to acknowledge that. I'll listen to it
21 and make a determination. And if that's the case, with all
22 due respect to the Defense, all that serves to do is confuse.

23 **MS. WHALEN:** That's fine, Your Honor.

24 **THE COURT:** And it's not the purpose to confuse the
25 jury.

1 Having said that, the matter of her mental health and
2 emotional state is certainly relevant in terms of attacking
3 her credibility. And you're certainly free to do that in
4 terms of parenting or whatever. It's who she is and what
5 we're dealing with.

6 So if you really contend that, "Come on, run. Get away.
7 When I tell you to run," may or may not be directed to
8 Mr. Gardner, I guess I'll have to take the time to listen to
9 it.

10 **MS. WHALEN:** Your Honor, would you like to do that
11 now?

12 **THE COURT:** That's fine. That's fine. Why don't we
13 just let the jury know that -- in fairness to the jury, Mr.
14 Gurevich, can you go and let the jury know there is an
15 evidentiary matter I'm dealing with to save time.

16 **THE CLERK:** I've already let them know.

17 **THE COURT:** Oh, you've already done that. Okay.
18 Good. Thank you. Well, you're doing a good job too then,
19 both of you.

20 **MS. WHALEN:** Your Honor, if it saves time, Mr.
21 Purpura just mentioned if we just want to say that the
22 relevance really is it goes to her emotional or mental state,
23 then I think it is relevant. And no --

24 **THE COURT:** The phrase, "Come on, run. Get away,"
25 if it's directed to someone else, it has nothing to do with

1 her emotional state, or whether she's quick-tempered or
2 whatever, it's just a matter of -- this is a transcript -- the
3 -- which exhibit are we talking about, the actual recording
4 itself, is this --

5 **MR. BUDLOW:** It's 75D.

6 **THE COURT:** 75 -- I have that we we're dealing with
7 this exhibit at the end of the day yesterday, Defendant's
8 Exhibit 75 --

9 **MS. WHALEN:** Yes, Your Honor, we were.

10 **THE COURT:** -- which is in evidence, the recording --
11 this recording is in evidence already, and the only issue is
12 these 75G for identification -- 75T for identification only in
13 terms of those words being added. And I guess the best way to
14 do this is to find a way, if Mr. Cadle can do this, to get to
15 that point, and I'll listen to it.

16 But the other line of inquiry is appropriate and the
17 Government objection is overruled as to that. You're
18 certainly free to attack her emotional state.

19 **MR. BUDLOW:** Your Honor, I will add, while he's
20 setting that up, not to take extra time, that if they didn't
21 include the line after run and that they're -- depending on
22 the Court's view, there is additional conversation about the
23 run, and it being in a parking lot right after the part that
24 you won't hear because the Defense --

25 **THE COURT:** Well, again, the basic point is, this is

1 being directed by Ms. Haynes to someone else, not to
2 Mr. Gardner, essentially.

3 **MR. BUDLOW:** Right. That's our view, and I'm just
4 pointing out that that aspect continues after the part you're
5 going to hear in a little bit, because they cut that out.

6 **THE COURT:** I mean, it's the same context if a
7 lawyer was having a conversation with me and suddenly yelled
8 at one of his or her children and said, "Judge, that wasn't
9 directed at you, it was directed at one of my kids." You
10 know, I've got the context. We're laughing. I got the
11 context. Let me just listen to it, and I'll make a
12 determination.

13 See if we can get to the point --

14 (Recording played but not reported.)

15 **THE COURT:** All right. I'm satisfied the phrase
16 "Come across the street" has actually been deleted from that.
17 So it's perfectly clear to me it's directed to someone in
18 terms of crossing the street having nothing to do with the
19 direction to Mr. Gardner, and indeed there's words that are
20 missing in terms of run across the street.

21 So it seems to me that the accurate transcript as to this
22 relevance is, "Set the house on fire." The only question is
23 when the jury has this recording, this recording has in it,
24 "Run across the street, come on and run," it has nothing to do
25 with the conversation with Gardner, and I don't know whether

1 we are able to correct that or not.

2 MS. WHALEN: Mr. Cadle has corrected that, I
3 believe, because we knew early this morning --

4 **THE COURT:** Okay. We can correct that then. That
5 will end with "Set the house on fire"; correct?

6 MS. WHALEN: Yes, we're okay.

7 **THE COURT:** Then the objection for the record is
8 sustained, by the Government as to that. But as to the other
9 line of inquiry, it's perfectly appropriate and Ms. Whalen can
10 explore it in terms of the emotional state and -- of
11 Ms. Haynes.

12 Okay. Is there anything else from the point of view of
13 the Government before we bring the jury in?

14 **MS. BRUSCA:** No.

15 **THE COURT:** From the Defense, Ms. Whalen, anything
16 else?

17 **MS. WHALEN:** No, thank you.

18 **THE COURT:** All right. Let's bring Ms. Haynes back
19 in first.

20 By the way, as for the record, we have -- well, these
21 were for identification only, the transcripts, they're not
22 coming into evidence. But we've already put on the record the
23 additional language that I've deleted, so it's been preserved
24 on the record. We preserve that in case this becomes an
25 issue.

1 I note for purposes of today, Counsel, we're going to
2 finish with Kiara Haynes, then we have Corporal Howard and
3 Sergeant Benton from the Cambridge Police Department, and then
4 Tonya Harris, and apparently it's not anticipated as it was
5 yesterday that Agent Kelly is going to testify.

6 Is that right.

7 **MS. BRUSCA:** I think -- did I leave out Detective
8 Lewis on there. Detective Lewis, Brian Lewis is going to go
9 before Tonya, I believe.

10 Did I leave that out?

11 **THE COURT:** Whatever, I just -- I'm sorry, in terms
12 of the witnesses today, Haynes, Howard, Benton, Harris, and
13 we're not anticipating Kelly. Is that right?

14 **MS. BRUSCA:** Not Kelly, but who you left out was
15 Detective Brian Lewis who will be recalled for the purposes of
16 the statement.

17 **THE COURT:** Okay. That's fine.

18 **MS. BRUSCA:** Thank you.

19 **MR. BUDLOW:** Before Harris, right?

20 **MS. BRUSCA:** Yes.

21 **THE COURT:** Detective Brian Lewis is being called
22 back to the witness stand, you're saying?

23 **MS. BRUSCA:** Correct, Your Honor.

24 **THE COURT:** Mr. Gurevich, we will re-swear her when
25 she comes.

1 **THE CLERK:** Yes, Your Honor.

2 **THE COURT:** With that, Ms. Haynes, if you'll take
3 the witness stand, we'll re-swear you when the jury comes back
4 in. Thank you very much.

5 Thank you, marshal.

6 (Witness resumes stand.)

7 **THE COURT:** And with that, we will get the jury.

8 **THE CLERK:** All rise for the jury.

9 (Jury enters courtroom 10:02 a.m.)

10 **THE COURT:** Good morning, everyone.

11 (Collective greetings.)

12 **THE COURT:** Nice to see you all. Good morning and
13 nice to see you all. Here I get you early, and we still don't
14 start until after 10:00. Again, because of the retrofitting
15 and precautions we're taking, we can't have bench conferences,
16 and there was an evidentiary matter that came up. There was
17 no purpose for you all to come in and listen to all this white
18 noise and try to do all of that.

19 So we're ready to go now, and with that, if you'll
20 re-swear Ms. Haynes.

21 Ms. Haynes, we need to have you re-sworn.

22 **THE CLERK:** Please stand and raise your right hand.

23 **THE COURT:** Please stand.

24 **KIARA HAYNES**, having been duly sworn, was examined and
25 testified as follows:

1 **THE WITNESS:** Yes.

2 **THE CLERK:** You may have a seat.

3 Just restate your name for the record, please.

4 **THE WITNESS:** Kiara Haynes.

5 **THE COURT:** Thank you, Mr. Gurevich.

6 With that, Ms. Whalen, you may continue with your
7 cross-examination.

8 **MS. WHALEN:** Thank you, Your Honor.

9 C R O S S - E X A M I N A T I O N (cont.)

10 **BY MS. WHALEN:**

11 Q. Ms. Haynes, you just took an oath to tell the truth;
12 correct?

13 A. Yes. And if I could, I want to correct something that I
14 said yesterday.

15 **THE COURT:** Well, just -- you just respond to
16 Ms. Whalen's questions, okay?

17 **THE WITNESS:** Okay.

18 **BY MS. WHALEN:**

19 Q. So Ms. Haynes, the oath that you took was essentially the
20 same oath that you took before the Grand Jury in July of 2020,
21 right?

22 A. Yes.

23 Q. And you told us yesterday that you lied before the Grand
24 Jury, right?

25 A. Yes.

1 Q. And the Grand Jury was a group of people, maybe not
2 seated like this in this courtroom, but a group of people much
3 like what you're testifying to in front of right now, right?

4 A. Yes.

5 Q. Now, yesterday I showed you a timeline --

6 A. Yes.

7 Q. -- do you recall that?

8 And at the bottom of the timeline, there were some spaces
9 for trial preparation.

10 Do you recall that?

11 A. Yes.

12 Q. And how many times in May -- strike that.

13 How many times did you meet with prosecutors and go over
14 what you're going to testify to?

15 A. I think it was twice.

16 Q. And do you think that was May of 2020?

17 A. Yes.

18 Q. Do you have a recollection now of the exact dates?

19 A. No, I don't.

20 Q. Now, the night before Ms. Jeffrey and her son were
21 killed, you were at your house when Mr. Briscoe left to go
22 over to hang with Jen, right?

23 A. Yes.

24 Q. And you then met up with -- or Theresa Cobb came over to
25 party with you, right?

1 A. Yes.

2 Q. So you were drinking that night?

3 A. Yes.

4 Q. Using drugs that night?

5 A. Yes.

6 Q. What drugs were you using?

7 A. Molly, marijuana, probably Percocet.

8 Q. I'm sorry, say that again.

9 A. Molly, marijuana, and probably Percocet.

10 Q. Okay. All, sort of, at the same time or one after the
11 other or how do you do that?

12 A. Probably one after the other.

13 Q. She stayed quite a while, right?

14 A. Yes.

15 Q. And at some point, roughly 4:00 or 5:00 in the morning,
16 you realized Mr. Briscoe isn't coming home, right?

17 A. Yes.

18 Q. And that's when you got on the phone trying to get him
19 there, right?

20 A. Yes.

21 Q. And you hadn't really slept because you're partying with
22 Theresa Cobb, right?

23 A. Right.

24 Q. So the next morning you have been up all night partying,
25 right?

1 A. Yes.

2 Q. So when you're talking to Shawn Gardner the next morning,
3 you're sleepy, right?

4 A. Yes.

5 Q. The next day you called Tiera Haynes to take you to
6 return the gun; is that correct?

7 A. I'm pretty sure it was that same day if it was 5 o'clock
8 in the morning.

9 Q. Thank you for correcting me. But we're talking about
10 later in that day you called Tiera to take you to return the
11 gun; is that correct?

12 A. Yes.

13 Q. And when you told us you were at Tiffany's that same day,
14 sort of, towards the evening hours, you actually saw drugs on
15 a big scale with a clock, right?

16 A. Yes.

17 Q. What room was that in at Tiffany's place?

18 A. Her bedroom.

19 Q. Her bedroom, okay?

20 A. Yes.

21 Q. Okay. Thank you.

22 **MS. WHALEN:** Your Honor, with the Court's permission
23 we'd like to pass out transcripts.

24 **THE COURT:** All right. That's fine. This is of
25 what -- the date of what call, Ms. Whalen, just so I'm clear?

1 **MS. WHALEN:** May 1st, 2015, Your Honor.

2 **THE COURT:** May 1st, 2015. That is Defendant's
3 Exhibit 74, and these transcripts are with respect to
4 Defendant's Exhibit 74.

5 Is that correct, Ms. Whalen?

6 **MS. WHALEN:** Yes, Your Honor.

7 **THE COURT:** All right. Again, ladies and gentlemen,
8 just with the Government transcripts, these are what the
9 Defense believes are on the tape. These items are not in
10 evidence. They're meant to assist you right now, but the
11 recording will be in evidence and you can listen to it during
12 your deliberations.

13 (Recording played but not reported.)

14 **MS. WHALEN:** And with the Court's permission --
15 sorry, I didn't finish my statement. With the Court's
16 permission, we'll pass out another transcript.

17 **THE COURT:** And this is having to do with --

18 **MS. WHALEN:** This is having to do --

19 **THE COURT:** Defendant's Exhibit 75, the May 9 call.

20 **MS. WHALEN:** That's correct, Your Honor. Thank you.

21 **THE COURT:** Thank you.

22 Does everyone have -- some of the jurors don't have the
23 draft transcript. This is the second one relating to
24 Defendant's Exhibit 75, which was introduced into evidence
25 yesterday, the May 9, 2015, telephone call between Ms. Haynes

1 and Mr. Gardner.

2 **MS. WHALEN:** Thank you, Your Honor.

3 (Recording played but not reported.)

4 **MS. WHALEN:** And the second clip, please.

5 (Recording played but not reported.)

6 **MS. WHALEN:** And the next clip, please, Mr. Cadle.

7 (Recording played but not reported.)

8 **MS. WHALEN:** Court's indulgence one moment.

9 And the next clip, please.

10 (Recording played but not reported.)

11 **MS. WHALEN:** And the final clip, please.

12 (Recording played but not reported.)

13 **BY MS. WHALEN:**

14 Q. You sure were mad when you were talking to Mr. Gardner,
15 right?

16 A. Yes.

17 Q. And you were expressing to him how you felt about
18 Ms. Jeffery, right?

19 A. Yes.

20 Q. And that was -- well, May 9th was just two weeks before
21 she was killed, right?

22 A. Yes.

23 Q. And did you have your child with you when you were saying
24 all of this to Mr. Gardner?

25 A. Yes.

1 Q. Right there next to you, right?

2 A. He probably was in his room or something. I'm not sure.

3 Q. Okay. No problem talking about killing somebody else in
4 front of your child, right?

5 A. Like I said, he probably was in his room.

6 Q. Okay.

7 A. But also that videotape that you played where you said I
8 wanted -- I said, I wanted to -- I been catching bodies since
9 I was five. No, I said, "She said she was catching bodies
10 since she was five."

11 Q. Okay. So that was Ms. Jeffrey's talking like she was
12 tough, right?

13 A. Yes.

14 Q. You never, ever told law enforcement that you threatened
15 to kill Jennifer Jeffrey and her child; did you?

16 A. No, but I never threatened to kill her child.

17 Q. You never, ever told law enforcement that you dressed up
18 in black and you went over to her house two days before and
19 had thoughts of killing her then, right?

20 A. That's not what happened. That's what I said, but that's
21 not what happened. I can tell you what happened.

22 Q. So now we have another lie.

23 Is that what it is?

24 A. No, you have the truth.

25 Q. How many times -- strike that.

1 Have you counted how many times you've lied about this
2 event?

3 A. Yes.

4 Q. How many times?

5 A. I'm not sure, but I'm telling the truth now.

6 Q. But you've counted them?

7 A. Well, no, I have not counted, but I know I've lied a lot,
8 yes, I have.

9 Q. A lot, right?

10 A. Yes.

11 Q. You never told law enforcement that, "Killing is in my
12 blood," right?

13 A. No.

14 Q. And you never told law enforcement that, "The next person
15 who I let close and crosses me, I'm going to kill," right?

16 A. I don't remember saying that because I was venting, like
17 I said. On the phone message, I was venting. I was upset.

18 Q. Ms. Haynes, you just heard that?

19 A. Yes. I'm not saying I didn't say it, but why would I --
20 how can I tell them something I don't remember saying.

21 Q. Fair enough. You remember saying it now, right?

22 A. Yes, I heard my voice.

23 Q. And you were angry and meant what you said to
24 Mr. Gardner?

25 A. No, I was venting as I stated in the call.

1 Q. All right. Ms. Haynes, did law enforcement at any
2 point -- I don't care which officer, which prosecutor, did
3 anybody ask you if you had threatened Jennifer Jeffrey before
4 she was killed?

5 A. I don't recall.

6 **MS. WHALEN:** Thank you.

7 **THE COURT:** Thank you, Ms. Whalen. Thank you very
8 much.

9 And with that, redirect, Mr. Budlow?

10 **MR. BUDLOW:** Thank you.

11 R E D I R E C T E X A M I N A T I O N

12 **BY MR. BUDLOW:**

13 Q. That was your voice we just heard on those calls,
14 Ms. Haynes?

15 A. Yes.

16 Q. You said all of those things?

17 A. Yes.

18 Q. And a lot of what you said was true?

19 A. Yes.

20 Q. You were jealous; correct?

21 A. Yes.

22 Q. Angry?

23 A. Yes.

24 Q. You said you wanted Jennifer dead?

25 A. Yes.

1 Q. Did you shoot Jen?

2 A. No, I did not.

3 Q. Who did?

4 A. Andre Briscoe, the Defendant.

5 Q. How do you know?

6 A. Because he told me he did it and I provided him with the
7 gun.

8 Q. When you left -- when the Defendant left for Jen's house
9 that morning, you testified earlier that you called him and he
10 didn't answer?

11 A. Yes.

12 Q. That you changed your mind?

13 A. Yes.

14 Q. Why did you change your mind?

15 A. Because K was home, and I did not want anything to happen
16 to the baby.

17 Q. Now, you, on cross-examination, talked about what you
18 hope happens as a result of your cooperation.

19 Do you remember that?

20 A. Yes.

21 Q. You were aware that you still face a maximum sentence of
22 life in prison?

23 A. Yes.

24 Q. And the Government's made no promise to you about what
25 sentence you'll receive?

1 A. Yes.

2 Q. And the judge can sentence you to any amount he thinks is
3 appropriate?

4 A. Yes.

5 Q. And when you took the stand this morning, you mentioned
6 something about your testimony yesterday that you wanted to
7 make a correction?

8 A. Yes.

9 Q. What happened when you left here yesterday in terms of
10 that testimony?

11 A. I remembered she asked me on the 8th did I tell the
12 complete truth about Andre's plan to kill Jennifer Jeffrey and
13 her son, and I said yes. But I did not tell the complete
14 truth to the Government until the 10th of September, and I
15 just had gotten my dates confused.

16 Q. And when you said "she," are you referring to a question
17 by Ms. Whalen from yesterday?

18 A. Yes.

19 Q. And when you say 8th, could you tell us what days, the
20 full date?

21 A. March the 8th.

22 Q. And when did you realize that you thought you testified
23 to something inaccurately yesterday?

24 A. On the ride -- on the way back to the prison.

25 Q. And did you communicate that information to your

1 attorney?

2 A. Yes.

3 Q. And is it your understanding that she communicated that
4 information to counsel?

5 A. Yes.

6 Q. Why, if you have lied so much in the past, did you want
7 to correct that testimony today?

8 A. Because I came here to tell the truth. I've been living
9 with this for seven years now and it felt good to get it off
10 of my chest.

11 Q. You were asked some questions about your interviews on
12 both March the 8th, 2021, and April 15th, 2021?

13 A. Yes.

14 Q. Do you remember being asked about those yesterday?

15 A. Yes.

16 Q. And when Defense Counsel asked you -- I think I'm
17 accurate, but I believe you were asked if the first time the
18 jail call between you and Tariek came up was during your
19 interview with law enforcement on April 15th when the call was
20 played for you.

21 Do you remember being asked about that?

22 A. Yes.

23 Q. Isn't it, in fact, true that you brought up that jail
24 call on March 8th, 2021?

25 A. Yes.

1 Q. And to your knowledge, at the time you brought that call
2 up, did anybody on the investigative team have any idea about
3 that jail call?

4 A. No.

5 Q. And they found it after you told them about it?

6 A. Yes.

7 **MR. BUDLOW:** Thank you. That's all I have, Your
8 Honor.

9 **THE COURT:** Thank you very much, Mr. Budlow.
10 Recross just on these points, Ms. Whalen?

11 R E C R O S S - E X A M I N A T I O N

12 **BY MS. WHALEN:**

13 Q. You were driving home -- or excuse me, back to prison
14 last night and you realized you made a mistake about a date?

15 A. Yes.

16 Q. Okay. Ms. Haynes, the truth is really based upon who
17 you're talking to, right?

18 A. No. The truth is the truth all of the time.

19 Q. And your truth to law enforcement for years was different
20 than what you've testified to yesterday, right?

21 A. Yes.

22 **MS. WHALEN:** Thank you. That's all I have.

23 **THE COURT:** Thank you very much, Ms. Whalen.

24 Ms. Haynes, you may step down.

25 Marshal, you will take her back to the custody area.

1 You should not discuss your testimony with anyone, Ms.
2 Haynes, in the event you are called back to the witness stand
3 before this trial concludes.

4 Thank you very much.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** Next witness, Mr. Budlow.

7 **MR. BUDLOW:** Yes. Thank you, Your Honor. The next
8 witness is Corporal Edward Howard.

9 **THE COURT:** Come forward, sir, and be sworn.

10 **THE CLERK:** Please remain standing and raise your
11 right hand for me, please.

12 **SERGEANT EDWARD HOWARD,** having been duly sworn, was
13 examined and testified as follows:

14 **THE WITNESS:** Yes.

15 **THE CLERK:** Have a seat. And while speaking clearly
16 into the microphone, can you please state and spell your full
17 name for the record.

18 **THE WITNESS:** Sergeant Edward L. Howard,
19 H-o-w-a-r-d, with the Cambridge Police Department.

20 D I R E C T E X A M I N A T I O N

21 **BY MR. BUDLOW:**

22 Q. Good morning, Sergeant Howard. I said you were a
23 corporal. You're now a sergeant?

24 A. I was up for promotion about two months ago.

25 Q. Congratulations.

1 A. Thank you, sir.

2 Q. How are you employed?

3 A. I'm currently employed with the Cambridge Police
4 Department as a road shift supervisor as well as an assistant
5 supervisor to our entry team.

6 Q. How long have you been with the Cambridge Police
7 Department?

8 A. This July will be going on 11 years.

9 Q. And very briefly, generally, what are your prior
10 assignments?

11 A. When I first came out of the academy, I was assigned to
12 the road for approximately a year and a half. Spent
13 approximately six and a half, seven years doing narcotics
14 investigations and I've been on the entry team for
15 approximately ten years.

16 Q. What was your assignment in June of 2015?

17 A. I was assigned to our criminal investigations division
18 and I was still a member of the entry team at that time.

19 Q. And were you working on June the 5th, 2015?

20 A. Yes, sir.

21 Q. Did you become aware of an operation or a search warrant
22 that was going to be executed at the Greenwood Avenue
23 Apartments?

24 A. Yes, sir.

25 Q. And had you learned about that the night before on June

1 the 4th?

2 A. We received a message that we had an operation, but we
3 didn't know the details of exactly what we were doing until
4 the briefing the next day.

5 Q. And when you say "The briefing," there was a meeting at
6 the Cambridge Police Department on June 5th in the morning?

7 A. Yes, sir.

8 Q. And that's when you received additional information about
9 that op -- what you guys would call an operation?

10 A. Yes, sir.

11 Q. Were detectives from Baltimore Police Department present?

12 A. Yes, sir.

13 Q. And did you get an overview of what they were
14 investigating and where you were going and who you were
15 looking for?

16 A. Yes, sir.

17 Q. And who were you looking for?

18 A. We were advised that we were looking for a male subject
19 by the name of Andre Briscoe.

20 Q. And were you already familiar with the Greenwood Avenue
21 Apartment Complex?

22 A. Yes, sir.

23 Q. Following the meeting, what did you and the team do,
24 generally?

25 A. After the meeting, the team briefs on the particular

1 members' assignment for that, and then we proceed to the
2 location to execute the search warrant.

3 Q. Showing you Government's Exhibit 4.1, do you recognize
4 this sort of U-shaped development?

5 A. Yes, that is the 500 block of the Greenwood complex.

6 Q. And I'm now showing you Government's Exhibit 4.2. Is
7 that 502 Greenwood?

8 A. Yes, sir.

9 Q. And is that one of the buildings in the U-shape that we
10 just saw?

11 A. Yes, sir.

12 Q. And where was the at least initial thought as to where
13 you were going to be executing the search warrant within this
14 building?

15 A. We were directed to the bottom floor apartment on the
16 right-hand side.

17 Q. And that U-shape is not one continuous building, it's
18 separate buildings; correct?

19 A. Correct. There is a cut-out where there is dumpsters
20 placed between the first part of the U and the back part of
21 the U, and then on the other side there is a walkway to the
22 600 side of Greenwood Avenue.

23 Q. And each building is laid out generally the same?

24 A. Yes, sir.

25 Q. Okay. And if we could just go through it quickly. There

1 is three levels?

2 A. Yes, sir.

3 Q. And there is an apartment on each level?

4 A. Yes, sir.

5 Q. So looking at this exhibit in front of you, there would
6 be -- to the left of the staircase is -- there's one apartment
7 on the left on the first floor, one on the second floor, one
8 on the third, and then the same on the right?

9 A. Yes, sir.

10 Q. And did -- was the search warrant executed at Apartment
11 101 initially?

12 A. Yes, sir.

13 Q. And was the person that you were looking for Andre
14 Briscoe present?

15 A. No, sir.

16 Q. After it was learned that Mr. Briscoe was not in
17 Apartment 101, what happened next?

18 A. The team backed out of that apartment and detectives as
19 well as officers began engaging in knock and talks.

20 Q. Could you give us a sense, at least, of the first entry?
21 Without going through all of the procedures, how loud is the
22 initial entry in terms of law enforcement's noise that they're
23 making right before entry?

24 A. The knock is very loud. It's a forceful knock, almost as
25 if somebody is kicking the door to make persons inside the

1 residence as well as in the surrounding area know that we are
2 the police and we announce, "Cambridge Police search warrant"
3 in order to inform everybody that we are the police, and the
4 nature for being at that residence.

5 Q. And did officers then move to some of the other
6 apartments within this building interacting with residents?

7 A. Yes, sir.

8 Q. And was the level of volume and force the same at those
9 apartments?

10 A. No, sir.

11 Q. And why is that?

12 A. One, we didn't have a warrant for those residents at that
13 time. We conduct ourselves in a more business-like manner.
14 It's a cordial knock. It's loud enough almost as to announce
15 to your friend, "Hey, I'm over here for dinner or whatnot."
16 It's a very cordial and polite process.

17 Q. And was the search warrant executed at the -- was this
18 101 on the bottom left?

19 A. Yes.

20 Q. And then were you aware that officers checked 102 on the
21 bottom right and 201 on the middle left for Mr. Briscoe and he
22 wasn't at any of those locations?

23 A. That's correct, sir.

24 Q. And do you recall officers, including yourself,
25 approaching Apartment 202, which would be second floor right

1 side?

2 A. Yes, sir.

3 Q. And who, generally, was there, do you recall, outside of
4 the building -- sorry, outside of the apartment?

5 A. It was members of our entry team. We were assisting with
6 the knock and talks, but the persons immediately at the door
7 were representatives from Baltimore City Police Department.

8 Q. And describe what happened next.

9 A. Again, it was a cordial knock at the door. We waited for
10 a response when the door was opened.

11 Q. And then what happened?

12 A. The detective from Baltimore and the male party that
13 answered the door had a cordial conversation.

14 Q. And did you observe the person that answered the door
15 inside at all? Could you see him?

16 A. Yes.

17 Q. And could you see if he did or said anything when first
18 interacting with the officers?

19 A. He completely opened the door and motioned towards the
20 couch that was sitting right in the door, the door jamb view.

21 Q. When -- and did officers go in following his motion?

22 A. They stepped in, yes.

23 Q. And did you go in?

24 A. Eventually, yes.

25 Q. And were guns initially drawn at the crossing of the

1 threshold into that apartment?

2 A. No, sir.

3 Q. What happened after you walked in?

4 A. When we walked in, we observed the male party who
5 answered the door, as well as another male party on the couch.
6 Then a third male party came into view and quickly entered
7 into one of the back bedrooms.

8 Q. And then what happened to the back bedroom door?

9 A. The back bedroom door was slammed and shut forcefully.

10 Q. So your initial entry, you saw three individuals?

11 A. Correct.

12 Q. Okay. So one who answered the door, one was on the
13 couch?

14 A. Yes, sir.

15 Q. And did you later come to learn the identity of the
16 person on the couch?

17 A. Yes.

18 Q. And who was that?

19 A. Mr. Andre Briscoe.

20 Q. And do you see him in the courtroom?

21 A. Yes, sir.

22 Q. Can you point to him?

23 **MR. PURPURA:** We'll stipulate he identified
24 Mr. Briscoe.

25 **THE COURT:** The record will reflect the witness has

1 identified the Defendant, Andre Briscoe.

2 **BY MR. BUDLOW:**

3 Q. When you entered and one of the individuals, not the
4 Defendant, ran to the back and slammed the door, how did that
5 change the conduct of law enforcement at that time?

6 A. We perceived it as a threat, because that individual's
7 demeanor did not match the calm nature of the two persons
8 initially at the door and the entryway.

9 Q. What did officers then do?

10 A. Officers drew their weapons and gave commands for the
11 individual to come out and show his hands.

12 Q. Did anyone come out of that bedroom?

13 A. Yes.

14 Q. How many people?

15 A. Two.

16 Q. And when they came out, did they comply?

17 A. Yes.

18 Q. Okay. Were those individuals, as well as the others,
19 initially detained?

20 A. Yes, sir.

21 Q. And by detained, you mean placed in restraints or
22 handcuffs?

23 A. Yes, sir.

24 Q. Did you also see a person that you knew from prior
25 experience named Tonya Harris at that house?

1 A. Yes, sir.

2 Q. And when I say "prior experience," you hadn't arrested
3 her previously; had you?

4 A. No, sir.

5 Q. What was the nature, very generally, of your interaction
6 with her previously?

7 A. She was having problems with her child at school and I
8 was trying to alleviate. It was more of a civil matter and
9 trying to get her some assistance with the child and the
10 problem that he was having.

11 Q. This was an elementary school-age child?

12 A. Yes, ma'am.

13 Q. Did you speak to Ms. Harris that day?

14 A. I did.

15 Q. When she first came out -- I should say, when you first
16 saw her, can you describe her demeanor?

17 A. She was very upset, yelling.

18 Q. Could you tell who she was upset with or yelling at?

19 A. She appeared to be yelling at the persons within the
20 residence.

21 Q. Not you?

22 A. No.

23 Q. All right. Back to the person on the couch that you've
24 identified as the Defendant, once the individuals came out
25 from the back room, was he also placed in cuffs?

1 A. Yes.

2 Q. What, if anything -- and were you involved in that?

3 A. I was myself and Corporal Daniel.

4 Q. And had you seen him previously before he was placed in
5 cuffs on the couch?

6 A. Yes.

7 Q. Do you remember if he was sitting or lying or something
8 else?

9 A. He was definitely sitting. There was a sheet there. What
10 appeared to be someone had been sleeping there.

11 Q. And did you engage in any routine or, sort of, quick
12 search as you placed him in cuffs?

13 A. Yes. After he was stood up and placed in cuffs, we did a
14 cursory check of the couch to make sure that there's no
15 weapons or anything of that nature that the subject can get
16 to, and then he was seated back on the couch.

17 Q. When you did that cursory search for weapons, did you
18 find anything?

19 A. When we sat him back down on the couch, I noticed that he
20 was sitting on a cell phone.

21 Q. What did you do with the phone?

22 A. I inquired if the phone was his and asked him if I could
23 move it.

24 Q. What did he respond, first when you inquired if it was
25 his?

1 A. He identified the phone as being his, and he gave me
2 consent to move it so it would not be damaged.

3 Q. And what did you do, ultimately, with that phone?

4 A. I sat it on a table within his reach, and the detectives
5 from Baltimore were notified of him, as well as the phone.

6 Q. When you entered the residence, you saw him sitting on
7 the couch? Was anybody else on that couch?

8 A. Anybody else on the couch? No.

9 Q. When you interacted with the Defendant, would you
10 describe him as cooperative?

11 A. Absolutely.

12 Q. How long do you think you remained in the apartment that
13 day?

14 A. I was probably on scene better part of an hour.

15 Q. Was the Defendant there the entire time?

16 A. While he was my responsibility, yes.

17 Q. No, but you were in there for more than an hour. My
18 question is, was the Defendant there that whole hour?

19 A. At some point, he was transported by other members.

20 Q. And you remained?

21 A. Yes.

22 Q. And when he was transported, was he still in handcuffs?

23 A. I wasn't there when he was transported, I was relieved of
24 my assignment and tasked with something else. I couldn't
25 advise that.

1 **MR. BUDLOW:** May I approach, Your Honor?

2 **THE COURT:** Yes, certainly.

3 **BY MR. BUDLOW:**

4 Q. Showing you Government's Exhibit 4.16, do you recognize
5 this item?

6 A. Yes, sir.

7 Q. What is that?

8 A. It is the cell phone that was recovered from the couch.
9 (Counsel confer.)

10 **MR. BUDLOW:** Thank you, Sergeant. That's all I
11 have.

12 **THE COURT:** Thank you, Mr. Budlow.

13 Cross-examination, Ms. Whalen?

14 MS. WHALEN: Thank you, Your Honor.

15 C R O S S - E X A M I N A T I O N

16 **BY MS. WHALEN:**

17 Q. Sergeant Howard, you knew the Greenwood Apartments and
18 were familiar with them, right?

19 A. That's correct, ma'am.

20 Q. And you had been there on other occasions; correct?

21 A. Yes, ma'am.

22 Q. And you knew that there had been drug activity in or
23 around those apartments; is that correct?

24 A. Yes, ma'am.

25 Q. And when you were executing the search warrant, your plan

1 -- I mean, you collectively, all of the officers, the plan
2 was, of course, to first secure the apartment; right?

3 A. The initial apartment, yes, ma'am.

4 Q. All right. Let's focus just on Apartment 201. When you
5 went inside, at first you were cordial and everything was
6 fairly calm, right?

7 A. 201 or 202, ma'am? 201 or 202? I had --

8 Q. What was the apartment that you found Mr. Briscoe?

9 A. 202.

10 Q. Pardon me. 202, let's focus on that, please.

11 A. Yes, ma'am.

12 Q. When you first went in, you said that things were cordial
13 and fairly calm; is that correct?

14 A. Yes, ma'am.

15 Q. But within seconds, was it, you saw an individual run to
16 the back? Was that right?

17 A. Yes. After the initial conversation at the door, I would
18 say it was seconds, yes, ma'am.

19 Q. And that was not Mr. Briscoe, right?

20 A. No, ma'am.

21 Q. He was -- you told us now he was sitting on the couch; is
22 that correct?

23 A. Yes.

24 Q. And he was actually, when you first went in, lying on the
25 couch; isn't that right?

1 A. I don't remember seeing him in a laying position. I know
2 when he came into my view, because I was not the initial
3 officer at the door, he was in a seated position.

4 Q. You have testified about these events in the past at a
5 separate hearing, right?

6 A. Yes.

7 Q. Would it help you to refresh your recollection as to
8 whether he was lying or sitting by looking at a document?

9 A. Yes, ma'am.

10 Q. All right. I'm going to show you what will be marked as
11 Defendant's Exhibit 128.

12 **THE COURT:** All right. This is for identification
13 only, Ms. Whalen?

14 **MS. WHALEN:** It is, Your Honor. Thank you.

15 **THE COURT:** Okay. Thank you.

16 **BY MS. WHALEN:**

17 Q. I'm going to direct you down to the last answer on this
18 document.

19 A. Yes, ma'am.

20 Q. Does that help you remember that he was laying at first?

21 A. Yes, it -- the couch was set up in a sleeping
22 arrangement-type configuration, yes.

23 **MR. BUDLOW:** Page number was that.

24 **MS. WHALEN:** 128, sorry.

25 **BY MS. WHALEN:**

1 Q. And he was calm; correct?

2 A. Yes, ma'am.

3 Q. Unlike the person who ran to the back, right?

4 A. Yes, ma'am.

5 Q. And the person who ran to the back was Tony Harris; is
6 that correct?

7 A. I don't know the name of the male. I just had contact
8 with the female subject prior.

9 Q. When you go into an apartment, after you make sure that
10 everything is secure and no one is in danger, then a search
11 happens; correct?

12 A. If a search warrant was obtained, yes.

13 Q. And in this case there was a search warrant, right?

14 A. Yes.

15 Q. And you've been trained, have you not, in searching
16 apartments, houses, whatever it may be, right?

17 A. Yes, ma'am.

18 Q. You want to look for any drugs in any place they could be
19 hidden; correct?

20 A. If that's what the warrant is for, yes, ma'am.

21 Q. So this warrant, if you recall, if you don't, it's fine,
22 but this was for drugs and weapons, right?

23 A. I had nothing to do with the authoring of that warrant,
24 so I couldn't tell you verbatim what was typed in that
25 affidavit for that judge.

1 Q. And clear, though, that if you're in someone's apartment,
2 you're looking for weapons to make sure that you guys are safe
3 and everyone is safe; correct?

4 A. On the initial entry, yes. If it's in plain view, we're
5 not going to necessarily go toss the house looking for weapons
6 without proper paperwork, no, ma'am.

7 Q. Sure. And I'm assuming you had proper paperwork,
8 Sergeant. So with the proper paperwork, if you saw a weapon
9 anywhere in the apartment, you, meaning the collective group
10 of officers, are going to take that weapon, right?

11 A. Yes, ma'am.

12 Q. Now, in your experience, people hide drugs or weapons in
13 all kinds of places, right?

14 A. That's correct.

15 Q. Sometimes in freezers, right?

16 A. Yes, ma'am.

17 Q. Sometimes in drawers?

18 A. Yes, ma'am.

19 Q. And sometimes under furniture?

20 A. Yes, ma'am.

21 Q. And so it would be important to search every location in
22 that apartment to see if you can find whatever it is you're
23 looking for; correct?

24 A. That is correct.

25 Q. And throughout the entire time that you were present at

1 Apartment 202, Mr. Briscoe's demeanor never really changed,
2 right?

3 A. That's correct, ma'am.

4 Q. You cuffed him, placed him sitting back down on the
5 couch; correct?

6 A. Yes, ma'am.

7 Q. And he was calm with you when you found the phone and sat
8 it aside, right?

9 A. Yes, ma'am.

10 Q. And he was pretty much compliant with whatever you asked
11 him to do, right?

12 A. Yes, he never gave us any trouble.

13 Q. Now, when you were at the apartment complex, you
14 indicated you went into a different house -- or apartment at
15 one point, right?

16 A. Yes.

17 Q. And how long would you say that you all were at that
18 apartment complex before -- let me -- if I may -- before you
19 went into Apartment 202?

20 A. I would say we were there roughly 30, maybe 40 minutes
21 after the execution of the initial warrant.

22 Q. And so Apartment 101, you banged very loudly to make sure
23 everyone knew you were police and you were coming in, right?

24 A. That's correct.

25 Q. And then the other apartment you knocked, right?

1 A. Correct.

2 Q. But there were a lot of police on those steps in varying
3 locations; correct?

4 A. That's correct. It's a small landing.

5 Q. And no one that you recall came out of the apartments and
6 ran, right?

7 A. No.

8 **MS. WHALEN:** Thank you, Sergeant Howard. That's all
9 I have.

10 **THE WITNESS:** Yes, ma'am.

11 **THE COURT:** Thank you very much, Ms. Whalen.

12 Any further questions, Mr. Budlow?

13 **MR. BUDLOW:** Very, very briefly.

14 R E D I R E C T E X A M I N A T I O N

15 **BY MR. BUDLOW:**

16 Q. This was not a drug warrant, right?

17 A. No.

18 Q. And in executing search warrants in your career --

19 A. Yes, sir.

20 Q. -- have you ever missed the drugs?

21 A. Absolutely.

22 **MR. BUDLOW:** That's all I have.

23 **THE COURT:** Thank you very much, Mr. Budlow.

24 Sergeant Howard, you may step down, sir. You shouldn't
25 discuss your testimony with anyone in the event that you're

1 called back to the witness stand until this trial concludes
2 next week.

3 **THE WITNESS:** Yes, Your Honor.

4 **MS. WHALEN:** Your Honor, could I collect the exhibit
5 up there?

6 **THE COURT:** Sure. Sure.

7 (Counsel confer.)

8 **THE COURT:** Next witness will be --

9 **MR. BUDLOW:** Thank you, Your Honor.

10 **THE COURT:** -- Sergeant Benton from the Cambridge
11 Police Department?

12 **MR. BUDLOW:** Yes, Jennifer Benton.

13 **THE COURT:** All right.

14 Yes, Your Honor. If you'll come forward here please and
15 be sworn. Thank you.

16 **THE CLERK:** Please remain standing and raise your
17 right hand for me, please.

18 **SERGEANT JENNIFER BENTON,** having been duly sworn, was
19 examined and testified as follows:

20 **THE WITNESS:** Yes.

21 **THE CLERK:** You may have a seat.

22 And while speaking clearly into the microphone, can you
23 please state and spell your full name for the record.

24 **THE WITNESS:** Sergeant Jennifer Benton, B, as in
25 boy, e-n-t-o-n.

1 **THE COURT:** Good morning, Sergeant Benton. I
2 overlooked doing this with Sergeant Howard previously. I just
3 forgot to do this. The standing order of this Court provides
4 that masks are to be worn in all public areas of the
5 courthouse as a continued precaution as to the COVID-19
6 pandemic, but in the discretion of a Presiding Judge in a
7 courtroom, if persons have been fully vaccinated, meaning two
8 vaccinations, they can pull their mask down while speaking.

9 Have you been vaccinated?

10 **THE WITNESS:** Yes, Your Honor.

11 **THE COURT:** So if you would like, you can pull your
12 mask down while you're testifying. You don't have to. It's
13 strictly up to you.

14 **THE WITNESS:** Yes.

15 **THE COURT:** You can take your mask off now if you
16 want, you're free to do so. Thank you very much.

17 Mr. Budlow, you may proceed.

18 **MR. BUDLOW:** Thank you, Your Honor.

19 D I R E C T E X A M I N A T I O N

20 **BY MR. BUDLOW:**

21 Q. Good morning, Sergeant Benton.

22 A. Good morning.

23 Q. How are you employed?

24 A. With the Cambridge Police Department.

25 Q. How long have you been a member of the Cambridge Police

1 Department?

2 A. A little over 17 years.

3 Q. And what's your current assignment?

4 A. I'm a road sergeant.

5 **THE COURT:** Keep your voice up into the microphone,
6 please. I'm sorry.

7 **THE WITNESS:** I'm sorry.

8 **BY MR. BUDLOW:**

9 Q. You're a senior road sergeant?

10 A. I'm a road sergeant, yes.

11 Q. In June of 2015, what was your assignment?

12 A. Detective.

13 Q. Were you involved in the execution of a search warrant at
14 502 Greenwood Avenue in Cambridge on June 5th, 2015?

15 A. Yes, I was.

16 Q. What was your role?

17 A. I was to respond to document, photograph, and collect any
18 evidence.

19 Q. Showing you 4.1, is that the complex where the search
20 warrant was executed?

21 A. Yes, it is.

22 Q. And 4.2, is that the building where it was executed?

23 A. Yes.

24 Q. Did you document that scene by taking photographs? Not
25 this photograph. When you did the search warrant --

1 A. Yes.

2 Q. -- did you document the scene by taking photographs?

3 A. Yes, I did.

4 Q. And did that include taking overall photos at the time of
5 entry, as well as photographs at the seizure of evidence?

6 A. Correct.

7 Q. Showing you Government's Exhibit 4.5, maybe. Starting
8 with page 1, can you describe that photograph, what it is?

9 A. That would be the main door, the only door to 502
10 Greenwood Avenue, Apartment 202.

11 Q. Page 2?

12 A. That would be a photograph taken from the threshold of
13 the door that you just saw looking into the living room, two
14 couches and an end table.

15 Q. So this doorknob is the entry door?

16 A. That's correct.

17 Q. And immediately in front of that entry door as it's open
18 is a couch facing away from the door?

19 A. Yes.

20 Q. Another couch facing you?

21 A. Yes.

22 Q. And what's this area back here where I have my cursor?

23 A. That is the area that would lead you to the three
24 bedrooms and the bathroom.

25 Q. Is that the beginning of a hallway there?

1 A. Yes, it is.

2 Q. And what is to the right of this photograph?

3 A. A kitchen and dining area.

4 Q. All right. Turn to page 12. Let me get there first.

5 What's on page 12?

6 A. This would be an image from the kitchen pointed towards
7 the front entry of 502, 202.

8 Q. And the couch facing away from the door is visible?

9 A. Yes.

10 Q. Page 4. Give me one sec. Okay. Page 4.

11 A. Okay. This would be a depiction of the kitchen dining
12 area to the right of the main entrance.

13 Q. Page 17?

14 A. So this would be a picture of the main bathroom of the
15 apartment, which is to the right of the entrance to that
16 hallway that you depicted earlier.

17 Q. So on page 1 where you were -- or page 2 when you were
18 looking in, you could see a hallway. There is, if you would
19 go to that hallway and turn right, the view?

20 A. Yes.

21 Q. So there is a bathroom directly in front. Could you tell
22 us what these two doors are to the left?

23 A. So where you have your cursor right now, just immediately
24 left to the doorway of the bathroom, that is the first bedroom
25 that I've labeled as Bedroom No. 1, and then you can see as

1 closest to this picture to the far left, another bedroom which
2 would be Bedroom No. 2.

3 Q. Now, some evidence was seized from one of the bedrooms in
4 this -- during this search. Which bedroom was it?

5 A. That would be Bedroom No. 1.

6 Q. So the back, the last bedroom on the left?

7 A. Correct.

8 Q. All right. Turning to Page 32, what does page 32 depict?

9 A. So if you were to -- Bedroom No. 3, if you were to turn
10 around from the bathroom where you were just standing, you
11 would be looking down that hallway to the Bedroom No. 3.

12 Q. And so where this officer is with the vest on the left
13 side of the photo, what's in that direction?

14 A. The return into the living room towards the front of the
15 apartment.

16 Q. And the end of the hallway where my cursor is here is
17 Bedroom 3?

18 A. Correct.

19 Q. Was suspected drugs and drug paraphernalia seized during
20 this search?

21 A. Yes.

22 Q. Turning to page -- and you said from which bedroom?

23 A. Bedroom No. 1.

24 Q. Turning to page 38, can you describe what bedroom this
25 was in, and what's depicted?

1 A. So this would be through -- excuse me, from Bedroom No.
2 1, and this is an image of a Newport cigarette box and a clear
3 baggie with some white substance that was pulled from it.

4 Q. Page 39?

5 A. This is a reference of where that item was located. It's
6 a top drawer dresser when you come into Bedroom No. 1,
7 immediately to your right.

8 Q. Let me scroll through three photos and ask you about
9 them, 49, 48, and 47. Tell us what's depicted in those
10 photographs and where are the scenes from?

11 A. So this is a -- what I've labeled as a long pill bottle.
12 It had an assortment of different pills, tablets in there.
13 And that was -- that particular one was to the left of that
14 same dresser that I was referencing behind a chair. To the
15 right of the bed, to the left of the little dresser.

16 Q. All right. Moving to page 56, and then I'll show you 57
17 before going back to 56. What's depicted in those two
18 photographs?

19 A. So what you'll see here is from Bedroom No. 1, there was
20 a TV, entertainment center. You're looking at a pair of what
21 I call Muck boots, and in the right shoe is clear plastic
22 baggies contained in a plastic bag. So there are several
23 little baggies, and then to the left shoe, that's just debris
24 when it was picked up, a paper towel came out that had a glass
25 smoking device wrapped in it.

1 Q. Page 58 and 59?

2 A. Okay. That is the paper towel with the glass smoking
3 device wrapped in it.

4 Q. And those were found inside this left, what you described
5 a Muck boot that's depicted on page 57; is that right?

6 A. Yes.

7 Q. Turning to page 60. This is -- what does this depict?

8 A. So where the Muck boots were in front of that where the
9 toes are --

10 Q. Turning back quickly to 57, it shows the Muck boots. Was
11 there a box in front?

12 A. Correct. That's a shoebox. In the shoebox were
13 suspected used, unused Latex gloves.

14 Q. Turning -- I'm going to do both, 61 and 62?

15 A. Okay. Little difficult to see, but if you see where the
16 glove is, there is a container that's being held that's also
17 black in color, that contained items for Narcan and unused
18 syringe, syringes.

19 Q. Go to Government Exhibit 4.17 specifically to page 13.
20 This is photograph of that same piece of evidence?

21 A. Yes, it is.

22 Q. Describe what we're looking at.

23 A. So the black container that had the syringes and the
24 locks on, which is Narcan.

25 Q. All right. And that's what was obscured by the black

1 glove, you're saying?

2 A. Yes.

3 Q. Going back to Government's Exhibit 4.5 page 66, one
4 second.

5 What's depicted on page 66?

6 A. So that's a little red bag that has a plastic baggie with
7 a cotton swab.

8 Q. And where was that seized from?

9 A. That one, if I could just reference, I believe front
10 Bedroom No. 1. The exact location was behind the bed.

11 Q. Going to page 67 and I'm also going to show you 70.

12 A. Okay.

13 Q. Back to 67. What's 67?

14 A. So that was a bag purse that I called it, and that was
15 located also in Bedroom No. 1, and there is a cell phone that
16 has a little heart on it.

17 Q. Was there also a black plastic bag inside that purse?

18 A. The second image from that.

19 Q. Turn to page 70.

20 A. Yes. That black plastic bag also had a pill bottle with
21 unknown white tablets.

22 Q. All right. While you were in that bedroom, Bedroom No.
23 1, did you observe any mail?

24 A. I did.

25 Q. Turning to page 41, is the mail depicted somewhat in this

1 photograph?

2 A. Yes, there is an envelope there, but on top of the
3 dresser is where the brunt of that mail was.

4 Q. All right. I'm going to go to page 43 and show you --
5 I'll show you three -- there's 43, 44, 45. We'll go back to
6 43. What do those generally depict?

7 A. That is mail from District Court displaying the name of
8 Terrill Harris.

9 Q. And I left out 46. Is that also another document with
10 the name Terrill Harris?

11 A. Correct.

12 Q. Now, going to page 55, is that another document that you
13 found inside Bedroom No. 1?

14 A. Yes.

15 Q. And whose names -- what are the names on that document?

16 A. James Ripka and Tony Harris.

17 Q. And was any other mail found inside that bedroom?

18 A. No.

19 Q. Again, going back to Government's Exhibit 4.17, this is
20 an exhibit of 20 photographs. Are you familiar with the
21 exhibit?

22 A. Yes, I am.

23 Q. Does it depict some of the evidence that you seized from
24 Bedroom No. 1 on June 5th, 2015?

25 A. Yes.

1 Q. Going to Photograph 2, can you describe generally what we
2 see here?

3 A. So those are the items of the Newport cigarette with the
4 clear baggie below it with this white substance. There is a
5 small digital scale to the left.

6 Q. It's this that I'm zoomed in on?

7 A. Correct. Now, you'll see the -- up above you'll see
8 these little clear plastic baggies with the apple on it, that
9 contains smaller, little individual baggies, which those
10 plastic bags to the right of that, those baggies were in that?

11 Q. These baggies, the little tiny bags inside a Ziploc bag
12 were inside these sandwich bags?

13 A. Yes.

14 Q. Got it.

15 A. Then the other two plastic bags you see to, like, the
16 left and the right of the Newport cigarette box and the scale,
17 those are our bags for packaging.

18 Q. This bag here on the left?

19 A. Yes.

20 Q. And this bag here on the right?

21 A. Yes, minus the little baggies in there.

22 Q. And where is all of the evidence in photograph 2 or 4.17
23 seized from?

24 A. The top drawer of the dresser in Bedroom No. 1.

25 **MR. BUDLOW:** May I approach, Your Honor?

1 **THE COURT:** Certainly.

2 **MR. BUDLOW:** 4.7.

3 **THE COURT:** This is exhibit number what, I'm sorry?

4 **MR. BUDLOW:** 4.7.

5 **THE COURT:** Thank you.

6 **BY MR. BUDLOW:**

7 Q. Can you tell us what that is?

8 A. This is a bag containing the items that are up on the
9 screen: The digital scale, Newport box, the white bag with
10 white substance and the plastic bags, baggies with the little
11 baggies in it.

12 Q. 4.8?

13 A. This is -- I'm sorry, this is the long pill bottle that
14 was located in Bedroom No. 1 with the label obscured.

15 Q. 4.9?

16 A. So this is the black plastic baggie that contained an
17 unlabeled pill bottle with white tablets that came from the
18 black purse bag from Bedroom No. 1.

19 Q. And is that 4.10 on the Government's exhibit?

20 A. Yes.

21 Q. Okay. I may have misidentified that, 4.9?

22 A. Okay. 4.9 is the contents of the large pill bottle.
23 Each individual pill was separated into smaller plastic
24 baggies.

25 Q. 4.12?

1 A. Do you want me to take it out?

2 Q. No, you can just look at it and describe it.

3 A. So in this bag contains the black case that had the
4 Narcan and syringes in it.

5 Q. Thank you. And 4.13, 4.13?

6 A. This is -- in this brown bag is copper mesh used, just
7 fresh copper mesh.

8 Q. And where was that found again, that was also from the
9 bedroom?

10 A. Bedroom number one, let me just double-check here,
11 Bedroom No. 1.

12 Q. All right. And there was a piece of mail that we looked
13 at, photographs of 4.15 in the name of Terrill Harris. Is
14 that that piece of mail?

15 A. Correct.

16 Q. 4.14?

17 A. This is the little red bag that had the suspected CDS and
18 the cotton swab, cotton ball.

19 Q. And then 4.11 -- you do not have to take these out -- are
20 these the Muck boots?

21 A. Yes.

22 Q. And did you check inside of them earlier this morning?

23 A. I did.

24 Q. And what's inside the boot on the right?

25 A. The clear plastic baggies, that green item that you were

1 seeing in that right heel area.

2 Q. And they're still in there?

3 A. Yes.

4 (Counsel confer.)

5 **BY MR. BUDLOW:**

6 Q. Sergeant Benton, was that evidence that we just examined
7 both in the photographs and that I showed you, was that seized
8 and also submitted for chemical analysis?

9 A. Some of those items, yes.

10 Q. And who did the testing?

11 A. Maryland State Police.

12 Q. As to the suspected smoking device that was in the left
13 Muck boot --

14 A. Yes.

15 Q. -- what were the results of the analysis of that pipe?

16 A. That came back as a Schedule 2 cocaine.

17 Q. As to the remaining items, was cocaine, heroin, Fentanyl,
18 or any opioid detected?

19 A. No.

20 Q. I'm specifically showing you page -- maybe -- 38 of
21 Government's Exhibit 4.5. For the record, I'll agree red is
22 hard to read.

23 Was that also tested, that white substance?

24 A. Yes, it was.

25 Q. And was it negative?

1 A. Yes, it was negative.

2 MR. BUDLOW: Thank you, Sergeant Benton. That's all
3 I have, Your Honor.

4 THE COURT: Thank you, Mr. Budlow.

5 Cross-Examination, Ms. Whalen?

6 MS. WHALEN: Thank you, Your Honor.

7 C R O S S - E X A M I N A T I O N

8 BY MS. WHALEN:

9 Q. Sergeant Benton, you were not present when the initial
10 tactical unit went into the apartment; is that correct?

11 A. That's correct.

12 Q. You came back later or some time after entry had been
13 made, right?

14 A. After entry was made.

15 Q. And your job, your specific job was to photograph and
16 collect evidence; correct?

17 A. Correct.

18 Q. And I think it probably goes without saying that you
19 consider yourself thorough in doing that or at least back in
20 2015 doing that particular job, right?

21 A. Yes.

22 Q. And you guys were all trained to search and what to look
23 for in searches; correct?

24 A. Yes.

25 Q. So you're trained to look in areas that might be unusual

1 to make sure that things aren't hidden in there, right?

2 A. Correct.

3 Q. So I think you told us that -- I'm going to show you
4 what's 4.5. I believe the red number is 72. Let me go out a
5 little bit for you. Okay. Maybe if I turn it this way, it's
6 more oriented to --

7 **THE COURT:** This is Defendant's Exhibit 72? I'm
8 sorry.

9 **MS. WHALEN:** No, this is Government, Your Honor.

10 **THE COURT:** Government Exhibit 4.5.

11 **MS. WHALEN:** 4.5, I believe --

12 **THE COURT:** All right. Thank you.

13 **MS. WHALEN:** -- it's Photograph 72.

14 **BY MS. WHALEN:**

15 Q. You had, I believe, testified -- tell us, again, what
16 this is.

17 A. It's a black container that had Narcan in it.

18 Q. And this was all behind a bed, right?

19 A. I believe that particular container was in the closet.

20 Q. Was there something --

21 A. It was in the closet of Bedroom No. 1.

22 Q. I apologize.

23 Was there something that you found behind the bed?

24 A. Yes.

25 Q. What was that?

1 A. That was the pills.

2 Q. The pills. And I'm going to show you what's been marked
3 as 4.9.

4 **MS. WHALEN:** If I could approach, Your Honor.

5 **THE COURT:** Certainly.

6 **BY MS. WHALEN:**

7 Q. Sergeant, take a look at 4.9 and let us know if that
8 appears to be, of course, the pills that were seized at the --
9 in the bedroom there.

10 A. Yes.

11 Q. All right. And were they packaged in the manner in which
12 they are currently?

13 A. No.

14 Q. How were they packaged?

15 A. They were in a long pill bottle, orange in color, with no
16 clear label on it.

17 Q. And I'm going to try to show you 4.5 again. It's this
18 red that we're all having trouble reading, but I believe it's
19 61. If you could take a look at this photograph, does that
20 depict the bottle that you're speaking of, the long bottle?

21 A. That's correct.

22 Q. Now, whole different type of pills in that bottle;
23 correct?

24 A. Correct.

25 Q. Now, when you're trained to search, you look for, really,

1 any evidence that could be evidence of a crime, right?

2 A. Yes.

3 Q. So, for instance, drugs may be something that you're
4 looking for, right?

5 A. Yes.

6 Q. Weapons may be something that you're looking for;
7 correct?

8 A. Yes.

9 Q. And then, you know, if there's something else in what we
10 call plain view, meaning you just happen to see it because
11 you're there and it appears to be evidence of criminal
12 conduct, you take it, right?

13 A. Yes.

14 Q. And so in this particular case, you and other officers
15 searched for anything you could find in the apartment, right?

16 A. I should clarify. I was not there to search. I was
17 there to photograph and collect evidence.

18 Q. All right. And the other officers that were there to
19 search were trained officers; correct?

20 A. That's correct.

21 Q. How many were there, if you know?

22 A. There were several.

23 On scene?

24 Q. Yes. What does several mean, if you can approximate?

25 A. Five to eight.

1 **MS. WHALEN:** Court's indulgence one moment?

2 **THE COURT:** Certainly.

3 **MS. WHALEN:** Thank you, Sergeant Benton.

4 No further questions.

5 **THE COURT:** Thank you.

6 Any redirect, Mr. Budlow?

7 **MR. BUDLOW:** No, Your Honor.

8 **THE COURT:** Thank you, Sergeant Benton. You're
9 excused. You should not discuss your testimony with anyone in
10 the unlikely event -- just put it on the table, they'll get
11 it.

12 **THE WITNESS:** Okay.

13 **THE COURT:** You should not discuss your testimony
14 with anyone in the unlikely event you're called back to the
15 witness stand.

16 Thank you very much.

17 **THE WITNESS:** Thank you, Your Honor.

18 **MR. BUDLOW:** Your Honor, may I approach the witness
19 stand to get the evidence?

20 **THE COURT:** Sure. Sure.

21 The next witness for the Government will be who, Ms.
22 Brusca?

23 **MS. BRUSCA:** It will be Detective Brian Lewis, Your
24 Honor.

25 **THE COURT:** All right. Detective Brian Lewis is

1 coming back to the witness stand. He was the fourth witness
2 last week; correct?

3 **MS. BRUSCA:** He was, exactly, Your Honor.

4 **THE COURT:** How long will he be? It might be an
5 appropriate point to take a break.

6 **MS. BRUSCA:** I was going to request one myself if
7 the Court would --

8 **THE COURT:** That's fine. We'll take our late
9 morning recess now, and then we will reconvene in about ten
10 minutes.

11 This Court stands in recess.

12 **THE CLERK:** All rise. Court's in recess.

13 (Jury exits courtroom 11:13 a.m.)

14 (Short recess taken.)

15 **THE CLERK:** This Court resumes its session. The
16 Honorable Richard D. Bennett, presiding.

17 **THE COURT:** All right. We are ready for the next
18 witness. It will be Detective Lewis. Hold just one second if
19 I can before we bring the jury back in. Detective Lewis was
20 witness number 4, the fourth witness, and he testified before
21 me, before the Court here -- let me get the day of his
22 testimony.

23 **MS. BRUSCA:** I believe it was the 25th, Your Honor.

24 **THE COURT:** He was on May the 25th, which was last
25 Wednesday -- was last Wednesday. And then I indicated to him

1 that he should not discuss his testimony with anyone in the
2 event he was called back to the witness stand.

3 He's now being called back to the witness stand. So I
4 just -- if I understand the context of it, because obviously,
5 there's this sequestration order in effect. So to the extent
6 someone is called back to the witness stand, I have to make
7 sure I inquire as to the compliance with the sequestration
8 order in terms of discussion with a witness.

9 You're certainly free to call any witness back, but
10 neither side is free to discuss detailed testimony of other
11 witnesses. So what is the proffer here --

12 **MS. BRUSCA:** Sure, Your Honor.

13 **THE COURT:** -- with Detective Lewis coming back on
14 the witness stand.

15 **MS. BRUSCA:** So Detective Lewis is coming back to
16 testify solely with respect to the Defendant's 2015 statement
17 following the search at the Cambridge apartment.

18 **THE COURT:** Okay.

19 **MS. BRUSCA:** And so that's what -- we haven't
20 discussed other folks' testimony with him. We have just -- we
21 have prepared him to testify today.

22 **THE COURT:** You told him that would be the topic
23 of --

24 **MS. BRUSCA:** Correct. It will.

25 (Counsel confer.)

1 **MS. BRUSCA:** I mean, we talked to him about the
2 interview. He has reviewed videotape.

3 **THE COURT:** All right. I don't have time to go
4 through my notes. Was that discussed with him previously in
5 his testimony?

6 **MS. BRUSCA:** No, Your Honor.

7 **THE COURT:** It was not. It's a topic that was not
8 discussed with him?

9 **MS. BRUSCA:** Correct.

10 **THE COURT:** So you're going to inquire of him as to
11 what his testimony would be in terms of any statements made by
12 the Defendant in his presence.

13 **MS. BRUSCA:** Correct.

14 **THE COURT:** Yes, Mr. Purpura.

15 **MR. PURPURA:** Your Honor, that was agreed. And I
16 think we might have advised the Court, or we may not. We
17 agree with the Government that his testimony is bifurcated to
18 that extent, so today's date is only the statements come in on
19 2015, the interview, Andre Briscoe.

20 **THE COURT:** Okay. I beg your pardon?

21 **MR. PURPURA:** It will be the interview of Mr.
22 Briscoe in 2015.

23 **THE COURT:** June 5, 2015 --

24 **MR. PURPURA:** Correct.

25 **THE COURT:** -- in connection with the Cambridge

1 search?

2 **MR. PURPURA:** Yes. That's it. That's it alone.

3 **THE COURT:** Okay. I'm just trying to cross a T and
4 dot an I here --

5 **MR. PURPURA:** I appreciate that.

6 **THE COURT:** -- in fairness to the Defendant.

7 **MR. PURPURA:** And I know there is limitations on
8 what I can and cannot do in cross-examination. I've already
9 told the Government --

10 **THE COURT:** Yes.

11 **MR. PURPURA:** -- that my cross will be limited to
12 what they've indicated, and they've highlighted what would be
13 -- what they thought --

14 **THE COURT:** Yes, just so we're clear in terms of the
15 matter of the comments by the Defendant. And essentially, we
16 have been down this path before.

17 Hold on one second here. Just to make sure we're still
18 here on the same wavelength, it has to do with the
19 admissibility, or lack thereof, of alleged self-serving
20 statements by the Defendant. And the Court has previously
21 ruled and granted a Government motion with respect to they're
22 not being admissible. And the case law on this quite clearly
23 is that a Defendant's out-of-court statements against him,
24 under Rule 801(d)(2)(A) of the Federal rules of evidence are
25 not hearsay, as they're statements of a party opponent.

1 But on the other hand, as the United States Court of
2 Appeal from the 4th Circuit, *United States versus Wilkerson* at
3 84 F.3rd 692, Fourth Circuit 1996 has clearly ruled, the rules
4 do not, however, provide an exception for self-serving
5 exculpatory statements made by a party to which you're being
6 sought for admission by that same party.

7 And the -- we've already dealt with this before in terms
8 of whether or not the -- any rule of completeness under
9 Rule 106 comes into play. And as far as I'm concerned, I've
10 defined the parameters here, and I expect them to be complied
11 with, and that's where we are.

12 **MR. PURPURA:** Just so the Court's completely aware,
13 if you recall at the motion hearing, the Government had an
14 exhibit, it was Exhibit A, and they had in yellow what they
15 thought they were going to play, and I'm confining and I --

16 **THE COURT:** Okay. That's fine.

17 **MR. PURPURA:** -- and I can confine this on my Cross
18 what they felt --

19 **THE COURT:** I think we're fine on this.

20 **MR. PURPURA:** Fine. Thank you.

21 **THE COURT:** Because of our precautions with the
22 COVID and retrofitting the courtroom and the difficulties we
23 all agree we'd had with this headset and white noise, it
24 doesn't seem to work, so we have to have the jury leave when
25 we have any heavy evidentiary discussions.

1 So with that, I think we're ready to bring the jury back
2 in and then we'll call Detective Brian Lewis back to the
3 witness stand.

4 **MS. BRUSCA:** Thank you, Your Honor.

5 **THE COURT:** Thank you very much, Counsel.

6 **THE CLERK:** All rise for the jury.

7 (Jury enters courtroom 11:38 a.m.)

8 **THE COURT:** Thank you, ladies and gentlemen.

9 And with that, we're now ready to go with the next
10 witness. And I believe we're calling Detective Brian Lewis
11 back to the witness stand now on another topic. And I know he
12 testified last week and he's returning to the witness stand,
13 and the Government's next witness is Detective Brian Lewis.

14 **MS. BRUSCA:** Thank you, Your Honor. The Government
15 calls Brian Lewis. Thank you very much.

16 **THE COURT:** Good morning, again, Detective Lewis.
17 Nice to see you.

18 **THE WITNESS:** Good morning, Your Honor.

19 **THE COURT:** If you'll be sworn please, sir.

20 **THE CLERK:** Remain standing and raise your right
21 hand for me, please.

22 **DETECTIVE BRIAN LEWIS,** having been duly sworn, was
23 examined and testified as follows:

24 **THE WITNESS:** I do.

25 **THE CLERK:** Would you please restate your name for

1 the record?

2 **THE WITNESS:** Sure. Detective Brian Lewis,
3 Baltimore City Police Department, homicide unit.

4 **THE COURT:** And Detective Lewis, as I think I went
5 over with you last week -- I've forgotten it once or twice
6 with some of the witnesses, but as I indicated previously,
7 last week, the standing orders of the Court provide that masks
8 are to be worn in all public areas of the courthouse with the
9 exception of in the courthouse. In the discretion of the
10 Presiding Judge if a person has been fully vaccinated, they
11 can pull their masks down while speaking or testifying. I
12 cannot recall. Have you been fully vaccinated, sir?

13 **THE WITNESS:** Yes, Your Honor, I have.

14 **THE COURT:** All right. So you can pull your mask
15 down while testifying, you don't have to. It's perfectly up
16 to you.

17 And with that, you may proceed, Ms. Brusca.

18 **MS. BRUSCA:** Thank you, Your Honor.

19 D I R E C T E X A M I N A T I O N

20 **BY MS. BRUSCA:**

21 Q. Hello, Detective Lewis.

22 A. Good morning.

23 Q. When you testified last week, you described that as part
24 of your investigation, following the murders, you began
25 tracking the Defendant's phone; is that correct?

1 A. Yes.

2 Q. And do you recall on what date you did that?

3 A. I believe it was June 4th of 2015.

4 Q. And what phone number were you obtaining data to locate?

5 A. (443) 621-2413.

6 Q. And that was the number subscribed to Defendant?

7 A. Yes.

8 Q. Were you able to track that phone number overnight to an
9 apartment complex in Cambridge, Maryland?

10 A. Yes.

11 Q. And was that the building at 502 Greenwood Avenue?

12 A. Yes, it was.

13 Q. Was the Defendant actually found inside of an apartment
14 at 502 Greenwood Avenue?

15 A. Yes, he was.

16 Q. Which apartment was it?

17 A. I believe it was 201.

18 Q. 201 or 202?

19 A. I'm sorry, 202.

20 Q. And were you there when the Defendant was first found
21 within Apartment 202?

22 A. No, I was not.

23 Q. Where were you?

24 A. I was in transit between the Cambridge Police Department
25 and coming back to the apartment complex.

1 Q. And when did you see the Defendant on June 5, 2015?

2 A. Like I said, I was in the apartment complex parking lot,
3 and he was in the -- I believe, a Cambridge Police Department
4 patrol car being ready to be transported back to the Cambridge
5 Police Department.

6 Q. Did you interact with the Defendant at all while you were
7 at Greenwood Avenue?

8 A. No, ma'am.

9 Q. And do you recall about what time it was that you saw the
10 Defendant getting ready to be transported?

11 A. I believe it was somewhere between 9:30 and 10 o'clock
12 that morning.

13 Q. When was the first time you spoke to the Defendant that
14 day?

15 A. My partner and I, Detective Parker and I first spoke to
16 him, I believe it was, about 2 o'clock that afternoon.

17 Q. 2 o'clock, June 5, 2015?

18 A. Yes.

19 Q. And when you spoke to the Defendant, can you describe the
20 room where you spoke to him?

21 A. Sure. The Cambridge Police Department provided an
22 interview room for us. The room consisted of a table and, I
23 believe, three or four chairs.

24 Mr. Briscoe was seated across from us from the table, but
25 again that was in the room, four walls, a door. The door, I

1 believe, had a window so that you could look inside. And
2 again, the room was equipped with audio and video equipment to
3 record the statement.

4 Q. And I'm not sure if we said it, but this was a room
5 where?

6 A. At the Cambridge Police Department.

7 Q. And you said the room was audio and video recorded. Is
8 there an audio and video recording of your interview with the
9 Defendant on June 5, 2015?

10 A. Yes, there is.

11 Q. Have you reviewed it?

12 A. I'm sorry?

13 Q. Have you reviewed that recording?

14 A. Yes, uh-huh.

15 Q. And how would you describe the quality?

16 A. The video is good. You can clearly see myself, Detective
17 Parker, and Mr. Briscoe in the room that I described. The
18 audio is low at certain points in the interview. It's -- when
19 I say "low," I mean, the volume of the audio is, kind of, low
20 and kind of difficult to hear at first, and then it kind of
21 increases over the time of the interview.

22 Q. And about how long did the interview on June 5th, 2015,
23 last?

24 A. If memory serves me right, it was about two hours, maybe
25 a little less than two hours.

1 Q. So when you -- and the whole two hours were recorded?

2 A. Yes, ma'am.

3 Q. So when you say that the recording was low volume and
4 hard to hear at first, can you describe whether you can hear
5 the words at all or sometimes or always?

6 A. You can hear the words sometimes, I would say. I know I
7 remember myself and Detective Parker asked Mr. Briscoe to try
8 to keep his voice up so that we could. But while we were
9 there in the room with him, we could hear what he was saying.
10 Again, the audio from the interview is low and there are times
11 when it's hard to make out what's being said, to include
12 myself and Detective Parker, as well as Mr. Briscoe.

13 Q. And so in preparation for your testimony today, have you
14 reviewed that recording a number of times?

15 A. Yes, ma'am.

16 Q. And have you used tools to speed it up and slow it down
17 and make it louder and things like that?

18 A. Yes.

19 Q. To try to get your best recollection of what happened?

20 A. Yes, ma'am.

21 Q. And about how many hours do you think that it would take
22 to understand that interview if you were to watch it from
23 start to finish?

24 A. Real time, like I said, it was about two hours to
25 interview to review and go over. Anywhere from five to seven

1 hours, maybe longer. Again, just for rewinding and trying to
2 slow it down to make out everything.

3 Q. And so today when you testified, you're going to give a
4 summary of that -- of the two hours rather than playing it in
5 full here today. Is that what we're trying to do?

6 A. Yes, ma'am.

7 Q. So when you were in the room at Cambridge, you described
8 three or four chairs. Who sat where within the room during
9 the interview?

10 A. Sure. So Mr. Briscoe was on the opposite side of the
11 table as myself and Detective Parker. Detective Parker was
12 directly across from Mr. Briscoe, and I was to Detective
13 Parker's right, on the same side as Detective Parker, again,
14 across from Mr. Briscoe.

15 Q. Was there anyone else in the room?

16 A. No.

17 Q. And when you sat down with the Defendant, what was the
18 first thing that you and Detective Parker did?

19 A. After sitting down with him, we proceeded to gain basic
20 information by filling out an information form.

21 Q. And what's the purpose of filling out an information
22 form?

23 A. One, to make sure that the person that we're speaking to
24 -- and again, there is just, in general, not this one
25 particular case, but, in general, it's to make sure that the

1 person is coherent and understands what's going on.

2 The other is to make sure that we're getting accurate
3 information as far as addresses and phone numbers and next of
4 kin and that sort of thing.

5 Q. And with respect to this Defendant, what was his demeanor
6 when he was answering information on the witness sheet?

7 A. He was coherent. He advised us that he had been drinking
8 the night before, I believe, but he did say he understood what
9 was happening at that time.

10 Q. And again, what time about did the interview start?

11 A. This was about 2 o'clock in the afternoon.

12 Q. Okay. And so he advised that he had been drinking the
13 night previous, the night prior?

14 A. Yes, ma'am.

15 Q. And how many people would you say you've interviewed
16 while you've been a homicide detective, Detective Lewis?

17 A. Hundreds.

18 Q. And so you are trained and you've had experience
19 recognizing signs of intoxication?

20 A. Yes.

21 Q. The Defendant in this case, was he able to answer the
22 questions that you were asking him?

23 A. Yes.

24 Q. And did he seem intoxicated to you?

25 A. No.

1 Q. All right. And I'm going to pull up Government's 4.22.

2 THE COURT: Government's 4.22.

3 MS. BRUSCA: Mr. Gurevich, can I ask you to clear
4 that? Sorry, I'm not sure why those arrows won't go away.

5 THE CLERK: I'm sorry, Counsel, clear what?

6 MS. BRUSCA: Those arrows.

7 THE COURT: Just touch the bottom of the screen.
8 They should go off, Detective Lewis, on your screen there.
9 There we go.

10 MS. BRUSCA: Thank you, Judge.

11 BY MS. BRUSCA:

12 Q. So what is Government's Exhibit 4.22, Detective Lewis?

13 A. This is the personal information sheet that I explained
14 just a few minutes ago, again, that the police department
15 uses.

16 Q. And so what address did the Defendant provide while you
17 were talking to him on June 5th, 2015?

18 A. 3442 Ravenwood Avenue, Baltimore, Maryland.

19 Q. And did he give a phone number?

20 A. He did. He gave actually a cell phone number of
21 (443) 621-2413.

22 Q. And that was the same number that you had tracked --

23 A. Yes, ma'am.

24 Q. -- to Cambridge?

25 A. Yes, ma'am.

1 Q. The same one that was listed as the contact for Poo in
2 Ms. Jennifer Jeffrey's flip phone?

3 A. Yes, ma'am.

4 Q. And with respect to next of kin, who did the Defendant
5 identify as his next of kin?

6 A. His grandmother, Ms. Lillian Harris.

7 Q. And did the Defendant provide contact information for
8 Ms. Harris?

9 A. He did not.

10 Q. And what about his -- a second relative?

11 A. He advised us his girlfriend, Tiffany Jackson.

12 Q. And did he provide contact information for Ms. Jackson?

13 A. He gave us a cell phone number and didn't give us an
14 exact address, but he advised us that she lived in the Perkins
15 Projects.

16 Q. Did he refuse to give you an address, or he said he
17 didn't remember?

18 A. From what I remember, he said that he didn't remember off
19 the top. He just knew it was Perkins Projects.

20 Q. And while the Defendant was being interviewed, was he
21 restrained in any way?

22 A. Initially, he was handcuffed.

23 Q. And then when were the handcuffs removed?

24 A. I believe it was during the Advice of Rights or it may
25 have been between doing the personal information and the

1 Advice of Rights sheet, but if memory serves, I believe it was
2 during the Advice of Rights sheet.

3 Q. Okay. And so we'll talk about the Advice of Rights in a
4 moment. Before we do, can you just tell us the time that the
5 witness information sheet was completed on June 5th, 2015?

6 A. 1:50 p.m.

7 Q. All right. And then you said you believed the handcuffs
8 were removed during the Advice of Rights.

9 What's an Advice of Rights?

10 A. It's the Miranda warning that officers give to persons
11 that are in police custody, and prior to giving any type of
12 statement to the police, the person is advised of their
13 rights.

14 Q. And shown on the screen is Government's 4.19. Can you
15 please explain what this document is?

16 A. Sure. This is the -- again, the Advice of Rights for
17 Mr. Briscoe. We, myself and Detective Parker, did not have an
18 Advice of Rights sheet from Baltimore. The Cambridge Police
19 Department provided an Advice of Rights form for us.

20 Q. And how is this Advice of Rights form, how was it used
21 with respect to advising the Defendant on June 5th, 2015?

22 A. Sure. So we advised Mr. Briscoe that we were going to
23 read him his rights and that we were going to go by each right
24 one at a time and that at the end, we were going to put a line
25 next to each right that was read and we were going to ask him

1 to put his initials only to acknowledge that he understood
2 what was being read to him or read out loud to him.

3 Q. And that was for each Item 1 through 5 on this Advice of
4 Miranda Rights form?

5 A. Yes.

6 Q. And at the bottom there, can you read the bottom
7 sentence?

8 A. Sure. "I have read or have read these rights read to me
9 and I fully understand each of my rights."

10 Q. And then whose signature is below that line?

11 A. Mr. Briscoe.

12 Q. And what's the date and time it was signed?

13 A. June 5th, 2015, at 2 o'clock.

14 Q. And did the Defendant agree to speak to you that day?

15 A. Yes, he did.

16 Q. And so can you explain what the bottom portion of
17 Government's 4.19 was?

18 A. Sure. So once we've gone through the Advice of Rights,
19 we then explain to -- or explained to Mr. Briscoe that before
20 he said anything or agreed, we want to make sure that No. 1,
21 that he fully understood the rights and if he still wanted to
22 speak to us without having an attorney present at that
23 particular time.

24 Q. And did the Defendant appear to understand his rights?

25 A. Yes.

1 Q. And at the bottom there, whose signature is it
2 documenting the waiver of those rights by the Defendant?

3 A. Mr. Briscoe.

4 Q. And the seconds line "witnessed by"?

5 A. Myself.

6 Q. And what times were those signatures placed on the form?

7 A. 2:01 p.m. and 2:02 p.m.

8 Q. Now, you testified, I believe, that the interview lasted
9 about two hours or a little less?

10 A. Yes.

11 Q. And during that time, were there any breaks?

12 A. Yes, there was.

13 Q. What was that for?

14 A. One to relieve myself, to go to the bathroom and, two, we
15 had Mr. Briscoe's cell phone that we had brought back in
16 because, again, we had been discussing certain things about
17 certain people and text messages and things like that, so we
18 want to go over those things with him.

19 Q. So just to make sure I understand, during the two hours
20 when you first started the interview, did the Defendant or you
21 have the Defendant's phone in the room?

22 A. The phone was outside the room.

23 Q. So when you say there was a break, can you just describe
24 what happened during the break?

25 A. Sure. We went out, got the Defendant's phone, Mr.

1 Briscoe, and we brought it back into the room.

2 Q. Okay. And do you remember about how far into the
3 interview that was?

4 A. I believe it was about halfway. I want to say about an
5 hour.

6 Q. I'm going to show you Government's 4.21. I think it's a
7 seven-page exhibit, and who's shown in that first picture
8 there?

9 A. That's my partner, Detective Parker, and Mr. Briscoe
10 sitting in the interview room.

11 Q. And what's laying on the table next to Detective Parker?

12 A. That is the cell phone.

13 Q. And page 2?

14 A. Mr. Briscoe taking the cell phone up.

15 Q. And you can see, is there a time stamp at the top of
16 these clips right here on Government's 21?

17 A. Yes, it's timestamped 1445 and 45 seconds, 2:45 p.m.

18 Q. About 45 minutes into this interview?

19 A. About 45 minutes, yes.

20 Q. And just to be clear, this is the room shown here at
21 Cambridge Police Department?

22 A. Yes, it is.

23 Q. And page 3, what's happening?

24 A. I believe at this point, Mr. Briscoe is attempting to
25 power up the phone and waiting for it to turn on.

1 Q. And 4?

2 A. At this point he is -- has the phone powered up and just
3 looking at the face of it.

4 Q. And then ultimately, what does the Defendant do with the
5 phone?

6 A. He gives it back to Detective Parker.

7 Q. So we're going to go back to the first part of the
8 interview without the phone and then move on to the second,
9 but that was the only time that you stepped out of the room,
10 was about 45 minutes in or so?

11 A. Yes, ma'am.

12 Q. So, just generally, can you describe the topics that you
13 covered when you spoke to the Defendant on June 5th, 2015?

14 A. Sure. We spoke about Mr. Briscoe's relationship with the
15 victim, the female victim, Ms. Jennifer Jeffrey. We spoke
16 about the relationship with, I believe, his cousin Kiara. We
17 also spoke about his whereabouts during that time period.
18 Also, we spoke about his -- I believe, his girlfriend, Ms.
19 Tiffany -- her last name is escaping me, but Ms. Tiffany, his
20 relationship with her and her location as far as where she
21 lives in Baltimore.

22 Q. And so when you first started speaking to the Defendant,
23 did you show the photographs?

24 A. Yes. Yes, I did. I showed photographs of both
25 Ms. Jennifer Jeffrey and her son, K.B., III.

1 Q. And did the Defendant indicate whether he recognized the
2 people in the photos?

3 A. Initially, he recognized K.B., III, Jennifer's son.
4 Initially, he did not recognize Jennifer's picture and then
5 he -- I believe he said that she had lost a lot of weight.

6 Q. And that day, did you speak to the Defendant about how he
7 met Jennifer?

8 A. Yes. He said that he met her through his cousin Kiara
9 and that was around Valentine's Day, around the 14th of
10 February in 2015.

11 Q. And did the Defendant tell you where he met Jennifer
12 Jeffrey for the first time?

13 A. Down in Cambridge. Kiara had brought Jennifer down to
14 Cambridge to meet her cousins.

15 Q. And did the Defendant indicate whether there was any sort
16 of occasion for that meeting?

17 A. I don't know if -- I can't remember if there was a
18 special occasion or not, but I know that he wasn't the only
19 one, meaning, his family -- as far as his family was
20 concerned, there were several cousins that got to meet
21 Jennifer and Kiara that day.

22 Q. And with respect to how frequently the Defendant saw
23 Jennifer after the first meeting, what did the Defendant tell
24 you?

25 A. He said about once a week that he would see Jennifer or

1 she would come down to Cambridge and he would come up to
2 Baltimore, but he said it was about once a week.

3 Q. And did the Defendant explain if he was alone or with
4 other people during these trips?

5 A. Sometimes he was with his cousin Tony, Tony Harris,
6 because at some point Jennifer and Tony Harris established a
7 romantic relationship.

8 Q. So after the meeting in February, the Defendant told you
9 he would see Jennifer about once a week?

10 A. Yes.

11 Q. And those meetings, you said, would occur in Baltimore
12 and in Cambridge?

13 A. Yes.

14 Q. And where did the Defendant tell you he would stay when
15 he was in Baltimore?

16 A. He said sometimes he would stay with Jennifer, sometimes
17 he would stay at Kiara's house, sometimes he would stay with
18 his girlfriend, Tiffany.

19 Q. And did the Defendant tell you where Jennifer would stay
20 when she would come down to Cambridge?

21 A. Sometimes with him.

22 Q. Sometimes not?

23 A. Sometimes not, yes.

24 Q. Now, did the Defendant tell you at some point there was a
25 change in how frequently he saw Jennifer Jeffrey?

1 A. Yes. Mr. Briscoe told us that the -- I guess the
2 romantic relationship between Tony and Jennifer had cooled
3 off, that things weren't as -- I guess as good as in the
4 beginning, and the frequency had gone from about once a week
5 to about once every other week or so.

6 Q. Did the Defendant discuss the nature of his relationship
7 with Ms. Jeffrey during this time?

8 A. He just said that they were cool. He knew that that was
9 Tony's girl, that, you know, he was just really cool with her,
10 they got along well, and it was really nothing more than that,
11 they were just good friends.

12 Q. And so with respect to physical intimacy with Ms.
13 Jeffrey, the Defendant said what?

14 A. He said that he did not have a physical or intimate
15 relationship with her.

16 Q. Now, what, if anything, did the Defendant say about how
17 frequently he saw Jen's son?

18 A. He said that he saw him on more than one occasion when he
19 would come up and that K.B., III saw him on more than one
20 occasion, so they saw each other quite a bit.

21 Q. Initially, when he was describing his relationship with
22 Jennifer, did the Defendant say anything about drugs?

23 A. I'm sorry, about what? I'm sorry.

24 Q. About drugs?

25 A. Initially?

1 Q. Yes.

2 A. No.

3 Q. At some point did the Defendant say something about
4 drugs?

5 A. Yes.

6 Q. And what was that?

7 A. That Jennifer was selling and that she was, you know,
8 trying to sell drugs down there, meaning the Eastern
9 Shore/Cambridge, but at some point he had said that, you know,
10 they didn't want it because the drugs are no good.

11 Q. And so let's break that into two different parts. You
12 said the Defendant said they didn't want the drugs because
13 they were no good?

14 A. Yes.

15 Q. In other words, a plural, more than one person?

16 A. Yes.

17 Q. And he said the -- he gave -- the reason, he said, was
18 because the drugs were no good?

19 A. Correct.

20 Q. Did he say whether or not he owed Jennifer money at the
21 time of her death?

22 A. When we spoke to him, he said that she didn't owe him
23 anything and he didn't owe her anything.

24 Q. And you said the Defendant told you she was trying to
25 sell heroin. Was he more specific about Jennifer's role or

1 not?

2 A. He told us that not only was she trying to sell down
3 there, but she was selling in other places as well, to include
4 Baltimore.

5 Q. And what about money, did the Defendant say anything
6 about Jennifer having money?

7 A. Just that she was getting money from selling the drugs.

8 Q. Now, during the time period of May of 2015, did the
9 Defendant say anything about Jennifer's supplier?

10 A. I believe he said that there were two people possibly
11 dealing with her.

12 Q. And Detective Lewis, would it be helpful if I show you a
13 portion of the transcript you earlier reviewed?

14 A. Sure.

15 **MS. BRUSCA:** All right. May I approach, Your Honor?

16 **THE COURT:** Yes. Document which is not -- this is
17 not a document in evidence. You're just showing him to
18 refresh his recollection; correct, Ms. Brusca?

19 **MS. BRUSCA:** Correct, Your Honor. And I believe it
20 has been marked for identification purposes only as 420T.

21 **BY MS. BRUSCA:**

22 Q. And having looked at the transcript, Detective Lewis,
23 does that help you refresh your recollection about what the
24 Defendant said --

25 A. Yes.

1 Q. -- regarding whether Jennifer was looking for money in
2 early May 2015?

3 A. Yes.

4 Q. And what was that?

5 A. It was to try to get money together to collect for CJ who
6 was locked up in Towson.

7 Q. And at some point during the interview, did the Defendant
8 actually use CJ's name?

9 A. I believe he referred to him as CJ.

10 Q. And apart from CJ, did the Defendant tell you the names
11 of any other individuals with whom Jennifer had been dealing?

12 A. The second name, I believe, was Tyrell or Tarrell.

13 Q. And turning now to a different topic -- well, actually
14 before we do that, those are the only two times. Did the
15 Defendant indicate whether Jennifer was just dealing generally
16 with more than those two people?

17 A. I'm sorry, say that again.

18 Q. Sure. Apart from those two names, did the Defendant
19 indicate whether Jennifer was dealing with more than just
20 those two people?

21 A. No. I mean, yes, yes, she was.

22 Q. Okay.

23 A. Yes.

24 Q. But those are more generic references?

25 A. Yes. Those were the only two names specifically that he

1 had named.

2 Q. All right. Now, turning to where the Defendant was the
3 week prior to June 5th, 2015, the date of the interview, what
4 did the Defendant tell you?

5 A. That he had come up to Baltimore from Cambridge, and that
6 he was going over to his girl's house, Tiffany's house, and he
7 went over to Tiffany's with Ki, meaning Kiara, that evening, I
8 believe it was. From -- hung out at Tiffany's for a little
9 while, and at some point, Kiara wanted to go home. And
10 because it was late, he didn't want to have her go home by
11 herself, so he actually left with Kiara and took Kiara back to
12 her place.

13 Q. And once he left Tiffany's and got back to Kiara's, where
14 did the Defendant tell you he went?

15 A. From Kiara's place, he then went to Jennifer's place.

16 Q. And how long was the Defendant at Jennifer's place,
17 according to him?

18 A. He said that he was there the rest of the night, from
19 about midnight until the next day -- next morning, excuse me.

20 Q. Did the Defendant tell you how he got to Jennifer's?

21 A. I believe -- no, no. He said that he got a ride up from
22 his cousin from Eastern Shore to get to Baltimore. He and
23 Kiara got a hack over to Tiffany's. And then he took Tiffany
24 back -- I'm sorry, took Kiara back to her home. And then from
25 her home, I believe, he said he got a hack to Jen's.

1 Q. Did he tell you how far Jennifer was from Kiara's?

2 A. Just a few blocks away.

3 Q. All right. So I just want to make sure because I
4 think -- was it sort of a point of clarification --

5 A. Sure.

6 Q. -- for you during the interview where the Defendant was
7 on the 26th?

8 A. Yes.

9 Q. So you said he started out at Tiffany's house?

10 A. Yes.

11 Q. Did he tell you the neighborhood that Tiffany was in?

12 A. He just said Perkins Projects.

13 Q. Who was the Defendant with, did he say, at Tiffany's?

14 A. He said Tiffany and I believe a cousin and a few other
15 people.

16 Q. Was that, you said, Ki?

17 A. Ki, I'm sorry. Yes, Ki.

18 Q. And so from Tiffany's how, where did the Defendant go?

19 A. From Tiffany's, he went back to Kiara's house with Kiara,
20 because she wanted to go home, but he didn't want her to go by
21 herself.

22 Q. Okay. From there he went to?

23 A. To Jen's by himself.

24 Q. And spent the night?

25 A. Yes.

1 Q. Did the Defendant tell you the next morning where he
2 went?

3 A. Yes, he said he went back to Kiara's house and spent some
4 time with her.

5 Q. And did the Defendant tell you what he and Kiara did
6 while they were at Kiara's house that morning, which is
7 Wednesday, May 27th?

8 A. Yes, he said that she was fussing at him because she was
9 upset that he had gone over to Jen's place, and he actually
10 asked her why she came over acting stupid, referencing coming
11 over to Jennifer's house in the late hours of the day that he
12 went over to see Jen.

13 Q. Did the Defendant tell you during the interview the
14 nature of his relationship with his cousin Kiara?

15 A. Yes, he did.

16 Q. And what was that?

17 A. He said they were kissing cousins.

18 Q. And so from that morning at Kiara's house, the Defendant
19 told you Kiara had been fussing at him?

20 A. Yes.

21 Q. And then did he tell you whether they ultimately sort of
22 reconciled?

23 A. Yes, yes, he did.

24 Q. Did he describe how that came about?

25 A. He said initially that she was, again, fussing at him,

1 that she was crying a little bit, but ultimately they end up
2 having sex.

3 Q. And from Kiara's house, did the Defendant tell you if he
4 went anywhere?

5 A. Back from Kiara's house, he said him and Kiara caught a
6 hack so that he could get to Tiffany's house. And from
7 there -- I'm sorry.

8 Q. That's fine. So did he tell you where he and Kiara
9 picked up the hack?

10 A. So I asked him, you know, "Did the hack come to Kiara's
11 apartment? Does she live in an apartment building?" And she
12 said No, they actually walked out and they walked a little
13 bit, so it was close to the apartment, but not exactly in
14 front of the apartment building where she lived.

15 Q. And he told you the hack went -- he and Kiara took the
16 hack toward where?

17 A. East Baltimore towards Perkins Projects.

18 Q. Where did the hack stop?

19 A. Somewhere on Broadway Street about a block or two before
20 Perkins Projects or before Tiffany's place.

21 Q. And who got out there?

22 A. Mr. Briscoe said he got out there.

23 Q. And what did Kiara do, according to the Defendant?

24 A. She continued with the hack over to a cousin's house
25 further east.

1 Q. All right. So, now, turning to who the Defendant told
2 you about being at Tiffany's house that afternoon on May 27th,
3 did the Defendant tell you who was at Tiffany's house?

4 A. Yes. He mentioned that Tiffany was there along with her
5 son along with some homeboys that he hadn't seen in a while,
6 and a cousin.

7 Q. Did the Defendant -- did you ask for any names of the
8 homeboys?

9 A. Yes.

10 Q. And what did the Defendant say?

11 A. He didn't provide any names. He just said that I could
12 speak to Tiffany and, I believe, her son.

13 Q. How long did the Defendant tell you he stayed at
14 Tiffany's?

15 A. He said he was there for a while before he went back to
16 Cambridge.

17 Q. Did the Defendant tell you how he got back to Cambridge?

18 A. I believe he said it was his cousin that came and got him
19 and they drove back.

20 Q. And did the Defendant -- how did the Defendant refer to
21 his cousin during that conversation?

22 A. I believe he called them either June or Junior, something
23 like that.

24 Q. And at that point, were you aware what Junior's real name
25 was?

1 A. No, I asked and he said that he didn't know all of his
2 cousins', you know, first and last names.

3 Q. So did he ever give you a name for Junior?

4 A. No. He just said Junior or June, because I think at one
5 point I thought he said June. I believed he was referring to
6 a female, but it was actually a male.

7 Q. Now, did the Defendant describe for you what time of day
8 he went from Tiffany's back to Cambridge?

9 A. I believe he said it was evening or nighttime, that the
10 sun was down.

11 Q. And what about once he got back to Cambridge, did the
12 Defendant provide any information about what he did once he
13 returned to Cambridge?

14 A. I believe he said he stayed with family, but he didn't
15 specify who that was.

16 Q. And did the Defendant tell you where he would stay,
17 generally, when he was in Cambridge?

18 A. Between his cousin's and, I believe, another girl, but
19 again, didn't specify where.

20 Q. And would it be helpful if I just showed you a portion of
21 that transcript again?

22 A. Sure.

23 Q. So what did the Defendant tell you about where he stayed
24 when he was in Cambridge?

25 A. That he would stay at his grandmother's or baby girl's.

1 Q. In addition to his cousin?

2 A. Yes.

3 Q. Did you talk to the Defendant about the last time that he
4 had been in touch with Jennifer?

5 A. Yes.

6 Q. And what did the Defendant tell you about that?

7 A. Said that he was at Kiara's when he was texting Jennifer
8 about heading back, I believe, or heading back to Cambridge.

9 Q. About leaving Kiara's?

10 A. Yes.

11 Q. Is that what the Defendant said?

12 A. Yes.

13 Q. And the Defendant told you he was texting with Jennifer
14 about that?

15 A. Yes.

16 Q. Did the Defendant indicate whether he spoke to Jennifer
17 again?

18 A. No, he said he didn't talk to her again.

19 Q. Did you ask the Defendant about the text messages?

20 A. Yes.

21 Q. What did you ask him?

22 A. I asked if he still had the messages in his phone and if
23 we could see those messages.

24 Q. And what did the Defendant say?

25 A. He said he had to reboot his phone or something like

1 that, to that effect.

2 Q. Do you recall, when you were asking the Defendant about
3 those text messages, if you had already given the Defendant's
4 phone to him during the interview?

5 A. At that time, no.

6 Q. So this is the first half of the interview?

7 A. Correct.

8 Q. Before you got the Defendant's phone?

9 A. Correct.

10 Q. And you asked him if he had the text messages, and he
11 said, "I just rebooted my phone"?

12 A. Correct.

13 Q. Now, turning to the Defendant's relationship with his
14 cousin Kiara, did the Defendant indicate if Kiara had a role
15 in the Defendant's trip to Baltimore the week prior?

16 A. Yeah, he told us that she had given him \$50 to make his
17 way up to Baltimore from Cambridge.

18 Q. And did the Defendant explain how he got to Cambridge?

19 A. Yes, he explained that one of his cousins drove him up.

20 Q. And what was the name of that cousin?

21 A. Dev, I believe.

22 Q. Does the Defendant have any additional information about
23 Dev?

24 A. No.

25 Q. He didn't have any or how did that go?

1 A. He just -- again, he gave us Dev from what I remember.
2 He didn't provide any other information about Dev.

3 Q. And did the Defendant talk about the incident when Kiara
4 came knocking on Jennifer's door?

5 A. Yes, he did.

6 Q. And what did he say?

7 A. He said that it was late and, you know, Kiara came over
8 and she was banging on the door very loudly. He said she was
9 there between 10 and 20 minutes.

10 Q. And then the next morning, as you already testified, he
11 went back to Kiara's house?

12 A. Yes.

13 Q. All right. And so apart from what we've just covered,
14 towards the end of the interview, were there any additional
15 steps that you took to execute warrants with respect to the
16 Defendant?

17 A. Yes. So we explained to Mr. Briscoe that we had a search
18 and seizure warrant for his DNA and that we wanted to take
19 some swabs and swab his mouth to ultimately compare his DNA to
20 any possible DNA that was left at the crime scene.

21 Q. And I apologize if you said it, Detective Lewis, what was
22 the Defendant's attitude about that?

23 A. He was fine with it. He was -- you know, he offered no
24 type of resistance to it. Matter of fact, I think he said,
25 "Please, you know, take it." I mean, he was okay with us

1 taking it, but, again, we did have a signed search and seizure
2 warrant for it, for the DNA.

3 Q. Now, I just want to go back and clarify one point. The
4 morning when the Defendant returned to Kiara's house after
5 being at Jennifer's house the morning of Wednesday, May 27th,
6 the Defendant told you he was texting with Jennifer; is that
7 correct?

8 A. Yes.

9 Q. And you said what was the content, according to the
10 Defendant, of those text messages?

11 A. Yes.

12 Q. What did he say about them?

13 A. Oh, I'm sorry.

14 Q. That's okay.

15 A. What was the question, I'm sorry?

16 Q. What were they texting about, according to the Defendant?

17 A. I believe that he was telling her that he was leaving
18 Kiara's house and heading back to Cambridge.

19 Q. And did the Defendant say if Jennifer said anything back
20 to him in those text messages?

21 A. Yes, that she would call him later.

22 Q. And did the Defendant tell you whether Jennifer had ever
23 called?

24 A. He said she did not call.

25 Q. That they never talked?

1 A. They never talked, right.

2 MS. BRUSCA: Nothing further, Your Honor.

3 THE COURT: Thank you very much, Ms. Brusca.

4 Cross-examination, Mr. Purpura.

5 MR. PURPURA: Thank you, Your Honor.

6 C R O S S - E X A M I N A T I O N

7 BY MR. PURPURA:

8 Q. Detective Lewis, good afternoon again.

9 A. Good afternoon, Counselor.

10 Q. Detective Lewis, I think you just began your Direct
11 Examination when you indicated that you had a warrant, a
12 tracking warrant, for Mr. Briscoe's phone; is that correct?

13 A. Yes, sir.

14 Q. And is that the same phone that was later seized in
15 Cambridge?

16 A. Yes.

17 Q. And it's the same phone that we saw in that little video
18 clip as well; correct?

19 A. Yes.

20 Q. And you indicated that the warrant, you believe, and I'm
21 not holding you to it, back in 2015, was June 4th signed;
22 correct?

23 A. I believe so.

24 Q. So at that point, on June 4th, I guess -- how do you --
25 how do you track, just technically, what happens at that

1 point?

2 A. The police department, the Baltimore Police Department,
3 has a unit that's called the advanced technical team, and they
4 have the equipment to track signals, I guess, based upon the
5 cell site information that is being transmitted back and forth
6 between the cell phones and the towers themselves. What that
7 equipment is, I specifically couldn't tell you.

8 Q. In addition, I think it's a little more advanced than
9 that as well. Even if you're not using the phone, they can
10 ping the phone, as long as the phone is on for the location
11 data. That's GPS data at that point; correct?

12 A. I believe so. Again, I'm not an expert in that field,
13 but I believe so.

14 Q. Regardless what it was indicative of was that Andre
15 Briscoe's phone on June 4th, 2015, was turned on, right?

16 A. I believe so, yes.

17 Q. Now, in homicide you've dealt, obviously, many, many
18 years -- and thank you for your service, again -- in homicide,
19 you've come across when people commit a horrendous crime and
20 they get rid of their phones completely, right?

21 A. That happens, yes.

22 Q. When Mr. Briscoe had the phone, and the phone was turned
23 on, so you were able to track him; correct?

24 A. Yes, sir.

25 Q. Now, you indicated that there was some basic information.

1 There was an information sheet that you had -- that you asked
2 questions from to begin this interview, probably many, many
3 others; correct?

4 A. Yes, sir.

5 Q. And No. 1, you want to see, in fact, if Mr. Briscoe
6 understood and was coherent. That's why you asked him these
7 fairly simple questions; correct?

8 A. Yes, sir.

9 Q. And, in fact, as you indicated, he did appear to be
10 coherent and he did clearly appear to understand your
11 questions as well, right?

12 A. That's right.

13 Q. Even though he might have been drinking the night before,
14 that had really no effect, whatsoever, based on your many,
15 many years of experience; correct?

16 A. Yes, sir.

17 Q. I think he said he had about four hours of sleep. He did
18 look a little sleepy, but that clearly didn't affect his
19 ability to understand and respond; would you agree?

20 A. Yes, sir.

21 Q. And the next would be whether he has given you accurate
22 information, like, does he give you the right name of Andre
23 Briscoe or does he say, you know, Andre Brown or some other
24 alias, right?

25 A. Yes.

1 Q. And you've had that happen before; correct?

2 A. Sure. Yes, sir.

3 Q. Thank you.

4 A. Yes.

5 Q. And, in fact, Andre Briscoe gave you the correct
6 information, his name. He gave you an address. He had
7 trouble with his grandmother's phone number and so he couldn't
8 give you that, but he gave you Tiffany Jackson's phone number;
9 correct?

10 A. Yes.

11 Q. And Tiffany Jackson's phone number was (443) 563-3915.
12 That's what's on the form, and to your knowledge, that's
13 accurate as well; correct?

14 A. Yes, sir.

15 Q. And Tiffany Jackson, so we know, is the woman who
16 eventually he told you about down in Perkins Projects. He's
17 known her for a year, and he said he was literally there just
18 before he came back to Cambridge a couple weeks ago?

19 A. Yes, sir.

20 Q. I'm sorry, these questions are long, but I apologize for
21 that. You also indicated there's three basic -- or you had
22 certain categories you wanted to check off in this interview.
23 No. 1 was his relationship with Jennifer; correct?

24 A. Yes.

25 Q. And just generally you can -- Mr. Briscoe did tell you

1 about his relationship with Jennifer; correct?

2 A. Yes.

3 Q. The next was Kiara Haynes; correct?

4 A. Yes, sir.

5 Q. And Mr. Briscoe did tell you about his relationship with
6 Kiara Haynes; correct?

7 A. He did.

8 Q. Next, specifically, you wanted to know about his
9 whereabouts on the 26th of May of 2015, the 27th of May of
10 2015, and the 28th of May of 2015; correct?

11 A. Yes, sir.

12 Q. And he did answer those questions as well; correct?

13 A. He did.

14 Q. And finally, as we just spoke about, was Tiffany Jackson,
15 and he gave you her phone number and he answered questions as
16 to Tiffany Jackson as well; correct?

17 A. Yes, sir.

18 Q. You had a warrant -- you didn't have an arrest warrant
19 for Mr. Briscoe; did you?

20 A. No, sir.

21 Q. The warrant you had was -- and the warrant you had was
22 for his DNA; correct?

23 A. That's right.

24 Q. And the DM is accomplished -- to accomplish that warrant,
25 I believe, in 2015, you would take a swab and you would swab

1 his mouth and then you would put it in the clean container and
2 save it for later lab analysis. Is that what it was?

3 A. Yes, sir.

4 Q. Now, I think that was near the very end of the interview
5 when you spoke to Mr. Briscoe about the DNA, obtaining his
6 DNA, and as you indicated, he was very compliant about that,
7 right?

8 A. Yes.

9 Q. In addition he said, "I'll give you my semen too," right?

10 A. Yes, he did.

11 Q. You don't collect that, right?

12 A. No, we don't.

13 Q. The interview, as you indicated, lasts approximately a
14 little under two hours, right?

15 A. Yes.

16 Q. And you also indicated that you saw a picture -- I seem
17 to lose things. Excuse me.

18 I'm showing you Government's Exhibit 4.21, page 1. Are
19 the -- so this is a still of the video; correct?

20 A. Yes, sir.

21 Q. And you reviewed the video and the video worked well,
22 right?

23 A. Yes, it did. Yes, it did.

24 Q. The problem was that there was some -- as you indicated,
25 some trouble with the recording in that it would take --

1 either Mr. Briscoe would be talking too softly or perhaps you
2 or your partner might have talked too softly and so there was
3 some trouble in the recording; correct?

4 A. Yes, sir.

5 Q. But you've dealt with those problems in the past in many,
6 many, many cases; correct?

7 A. We've had issues in the past.

8 Q. Okay. So what's been created is an exhibit which you've
9 looked at briefly to refresh your recollection, and I'm now
10 going to bring up to you Defense Exhibit No. 54, which --

11 **MR. BUDLOW:** ID only?

12 **MR. PURPURA:** Absolutely ID only. Unless you guys
13 want to --

14 **MR. BUDLOW:** ID only.

15 **THE COURT:** What exhibit number is this,
16 Mr. Purpura? 54?

17 **MR. PURPURA:** Fifty-four.

18 **THE COURT:** All right.

19 **MR. PURPURA:** ID only.

20 **THE COURT:** All right. ID only. Identification
21 only.

22 **MR. PURPURA:** Thank you.

23 **THE COURT:** It's not being introduced into evidence.

24 **BY MR. PURPURA:**

25 Q. Just take a look at the front page, is that --

1 A. Just the cover page where it says --

2 Q. You can look at the whole thing. I'm just trying to
3 shorten this up. If I say this is the transcript that the
4 Government and I have agreed upon as an exhibit transcript,
5 that accurately would reflect the recordings?

6 A. Yes, sir.

7 Q. And I'm going to ask you a couple questions now from
8 that. And feel free, and I'll give you the page number and
9 everything else, just to take a look at it, okay. Now you
10 went through -- I'm sorry.

11 **MS. BRUSCA:** May I, Your Honor?

12 **THE COURT:** Yes, sure.

13 (Counsel confer.)

14 **BY MR. PURPURA:**

15 Q. Initially after going through some basic questions with
16 Mr. Briscoe, you then, as we've heard before on 4.19, you went
17 through the Advice of the Miranda Rights with Mr. Briscoe;
18 correct?

19 A. Yes, sir.

20 Q. And as you indicated, those are his initials, right?

21 A. Yes.

22 Q. He signed it as well, dated it; correct?

23 A. Yes.

24 Q. And you're confident he understood exactly what he was
25 being asked; is that correct?

1 A. Yes, sir.

2 Q. And at no time -- at no time in the two-hour
3 conversation, at no time did he ever stop and say, "I want a
4 lawyer," right?

5 A. No, he did not.

6 Q. And in the beginning, before he even started, he didn't
7 sit there and think about, should I have a lawyer? He never
8 even said that; did he?

9 A. He did not.

10 Q. And he never requested a lawyer?

11 A. No.

12 Q. And to your knowledge, before June 5th, 2015, did he have
13 any legal counsel at all on this issue?

14 A. As far as I know, no.

15 Q. And, you know -- and you knew at that point, because he
16 was a target at that point, you know that this was not his --
17 I use the word "rodeo," this was not his first time being
18 arrested; correct?

19 A. Yes.

20 Q. So to your knowledge he's been through that process
21 before, so this is a man who really should know his rights,
22 whether he should or should not have a lawyer; correct?

23 A. I would agree.

24 Q. Thank you.

25 So you asked him, first of all, about K.B., you showed a

1 photograph of K.B., and he was able to identify K.B.; correct?

2 A. Yes, sir.

3 Q. He didn't say that "I don't really know him. I never saw
4 him before," right?

5 A. Correct.

6 Q. Okay. And then you showed him a picture of Jennifer
7 Jeffrey and he looked at that and at first he said, "That's
8 not familiar," right?

9 A. I don't know if he said, "That's not familiar." I know
10 he paused trying to figure out who that was.

11 Q. And then his trouble appeared to be that she lost a lot
12 of weight --

13 A. Yes.

14 Q. -- between that photograph and --

15 A. Yes.

16 Q. -- 2015?

17 A. Yes, sir.

18 Q. But then he did eventually say, "Yes, that's Jennifer
19 Jeffrey, just a larger picture of her?"

20 A. Yes, sir.

21 Q. And that was accurate, that was her photograph; right?
22 Yes?

23 A. Yes, it was.

24 Q. And it was accurate, that was K.B.'s photograph; correct?

25 A. Yes.

1 Q. And he told you in the beginning that he went -- that he
2 saw her sometime in February, started -- met her sometime in
3 February. I think he even used Valentine's Day as a mark when
4 he first, kind of, met Jennifer Jeffrey; correct?

5 A. Yes.

6 Q. And that, based on your investigation, was accurate as
7 well; is that correct?

8 A. Yes.

9 Q. He indicated that he saw her, approximately, one time a
10 week, sometimes on the Eastern Shore and sometimes in
11 Baltimore?

12 A. That's right, yes.

13 Q. And again, based on your investigation, that was accurate
14 as well; is that correct?

15 A. Yes, sir.

16 Q. He said the first time he met her was through his cousin
17 Kiara Haynes; correct?

18 A. Yes.

19 Q. And he said the first time he met her was on the Eastern
20 Shore; correct --

21 A. I believe so, yes.

22 Q. -- in Cambridge?

23 And that was accurate, as well, based on your
24 investigation; is that correct?

25 A. Yes, sir.

1 Q. He told you about -- there was a sexual relationship
2 between his cousin Tony and Jennifer Jeffrey; correct?

3 A. Yes.

4 Q. And based on your investigation, that was accurate as
5 well; correct?

6 A. That's right.

7 Q. And he told you that that sexual relationship between his
8 cousin Tony -- that's Tony Harris -- and Jennifer Jeffrey was
9 somewhat cooled off by May or June of 2015; correct?

10 A. I believe it was April, May, but yes.

11 Q. April, May 2015?

12 A. Yes.

13 Q. And based on your investigation, that was also correct?
14 The relationship did cool off between Jennifer and Tony;
15 correct?

16 **MS. BRUSCA:** Objection. Basis.

17 **THE COURT:** Sustained. It's sustained. You have to
18 state the basis to this witness's knowledge as to that.

19 **MR. PURPURA:** Based on his investigation, if he
20 knows.

21 **THE COURT:** Well, but in terms of the knowledge he
22 gains through investigations, just lay a foundation as to
23 whether or not he inquired as to that.

24 Objection is sustained. You have to lay a foundation for
25 him to opine as to that, so you have to lay a foundation for

1 it.

2 **BY MR. PURPURA:**

3 Q. Before you went up and did this interview and after you
4 did this interview, you investigated Andre Briscoe; correct?

5 A. Yes.

6 Q. And this is a homicide investigation; correct?

7 A. That's right.

8 Q. And you did this with your partner; correct?

9 A. That's right.

10 Q. And you both did the best -- you were the lead on this
11 particular case; correct?

12 A. That's right.

13 Q. And you both, yourself and Detective Parker, did the best
14 you could under the circumstances of this investigation;
15 correct?

16 A. Yes, sir.

17 Q. And you followed a lot of leads; is that correct?

18 A. That's fair to say, yes.

19 Q. And you interviewed a lot of people; is that correct?

20 A. Yes.

21 Q. And so when I asked you -- based on your investigation,
22 are you calling upon your memory of all of the people you
23 interviewed, all of the leads you followed and your entire
24 investigation?

25 Is that correct?

1 A. Yes, sir.

2 Q. Thank you.

3 Now, you wanted to know when Andre Briscoe was up in
4 Baltimore right around -- well, you wanted him to tell you
5 whether he was in Baltimore recently and when he saw Jennifer
6 Jeffrey the last time; correct?

7 A. Yes, sir.

8 Q. And you actually had, I think, a calendar you pulled up
9 on your cell phone; correct?

10 A. That's right.

11 Q. Okay. And he told you that the date that he went up
12 there based on him saying a couple days what -- anyway, long
13 story short is that you all concluded he went up there on the
14 26th; correct?

15 A. Yes.

16 Q. And based on your investigation, that's accurate;
17 correct?

18 A. Yes.

19 Q. And right in that same colloquy between you and
20 Mr. Briscoe, you asked him what time? When, on the 26th, did
21 he go see Jennifer Jeffrey, and how long did he stay at
22 Jennifer Jeffrey's?

23 Do you remember that?

24 A. I do.

25 Q. And what he told you was that he arrived sometime around

1 midnight and left sometime early the next morning; correct?

2 A. Yes, sir.

3 **MR. PURPURA:** Putting up Government's Exhibit 11.1
4 which do you want to see cell tower?

5 **MR. BUDLOW:** Yes.

6 **BY MR. PURPURA:**

7 Q. Showing you Government's Exhibit 11.1, and this is from
8 the time period of roughly 12:25 a.m. on the 27th through 5:15
9 a.m. on the 27th. It will be indicative that the cell phone
10 of Mr. Briscoe was in the vicinity of Jennifer Jeffrey's
11 house. Would that be consistent of what he told you when you
12 interviewed him five years earlier?

13 A. Yes.

14 Q. And he also, specifically, told you where he was in
15 Jennifer Jeffrey's house. He told you that he was in the
16 bedroom with her and that he was sitting on a white chair;
17 correct?

18 A. Yes, he did.

19 Q. And early in the investigation, this is early June 5th,
20 2015, when he said he was in the bedroom, you and your partner
21 were thinking that there was more going on at this point than
22 him just sitting there. Is that fair to say?

23 A. We asked if there was a physical relationship going on
24 with him and Jennifer.

25 Q. And he told you there wasn't; correct?

1 A. That's right.

2 Q. And, again, based on your investigation, have you
3 reviewed the autopsy report?

4 MS. BRUSCA: Objection.

5 MR. PURPURA: Excuse me.

6 THE COURT: I can't hear you.

7 MS. BRUSCA: Withdrawn for that one, Your Honor.

8 THE COURT: I can't hear you. I'm sorry.

9 MS. BRUSCA: Withdrawn for that one, Your Honor. I
10 withdraw my objection.

11 THE COURT: Okay.

12 BY MR. PURPURA:

13 Q. As part of your investigation, have you reviewed the
14 autopsy report of Jennifer Jeffrey?

15 A. I did.

16 Q. And was there any seminal fluid found in the anal area,
17 vaginal area, or oral area?

18 A. No, sir.

19 Q. Again, that would be consistent of what Andre Briscoe
20 told you when you interviewed him back on June 5th, 2015;
21 correct?

22 A. Yes, sir.

23 Q. You reviewed the photographs as part of your
24 investigation, in particular, Exhibit 2.8 of Jennifer
25 Jeffrey's house. Sorry. I should put it up there.

1 Do you recognize that?

2 A. Yes, I do.

3 Q. Okay. And that would be the white chair that Andre
4 Briscoe said that he was seated in in Jennifer Jeffrey's
5 bedroom; is that correct, sir?

6 A. Yes.

7 Q. And then Mr. Briscoe told you about Kiara coming to
8 Jennifer Jeffrey's house early in the morning around 4 or
9 5 o'clock in the morning and banging on the door; correct?

10 A. Yes.

11 Q. And he said that the banging, the incident lasted for
12 about 10 to 15 minutes; correct?

13 A. Yes, sir.

14 Q. He also indicated that either Ms. Jeffrey or her
15 roommate, her niece called 911; correct?

16 A. Yes.

17 Q. And, in fact, as the investigator, you were able to
18 confirm that, in fact, someone did call 911 about this
19 incident; correct?

20 A. Yes.

21 Q. And you also interviewed -- in addition to the many
22 people you interviewed, you interviewed the niece of Brittany
23 and -- is that her last name?

24 You interviewed Brittany Street as well?

25 A. I believe her first name is Brianna.

1 Q. Brianna, Brianna Street, did you --

2 A. Yes.

3 Q. Thank you.

4 And she confirmed about this (knocking) banging on the
5 door and the argument that went on with Kiara early in the
6 morning; correct?

7 A. Yes, sir.

8 Q. And, again, that's consistent with exactly what Andre
9 Briscoe told you without counsel on June 5th, 2015; correct?

10 A. Yes, sir.

11 Q. He told you once he left Jennifer's that he went back to
12 Kiara's house; correct?

13 A. Yes.

14 Q. And did you -- based on this, did you have cell phone
15 data at that point?

16 A. I believe the 5th of June --

17 Q. Well, strike that. I apologize.

18 During your investigation, as the homicide detective, did
19 you have cell phone information or cell site information which
20 confirmed that, in fact, Andre Briscoe did go from Jennifer
21 Jeffrey's house back to Kiara's house sometime in the morning
22 hours?

23 A. I don't think that it picked up specific addresses in
24 Baltimore, especially since -- given the distance between
25 Ms. Jeffrey's home and Ms. Kiara's home.

1 Q. Fair enough.

2 But Andre Briscoe did tell you that he went back to
3 Kiara's house; correct?

4 A. Yes.

5 Q. He was somewhat upset that she was banging on the door,
6 right?

7 A. Yes.

8 Q. And then they made up, apparently, and had sex. That's
9 what he told you, right?

10 A. Yes.

11 Q. And then he did tell you that sometime early afternoon on
12 the 27th, he went over to Perkins Projects; correct?

13 A. I thought he said later in the evening. I thought he
14 said after the afternoon, it was later in the evening.

15 Q. All right. Whether it's -- if you recall -- if you can
16 find it, please, please help me out. But if not, the bottom
17 line is that he did tell you that he went over to Tiffany
18 Jackson's house and, again, we're on the 27th of May; correct?

19 A. Yes.

20 Q. And he said he spent -- he stayed at Tiffany Jackson's
21 house until late in the evening, correct, if you remember?

22 A. So I'm looking at page 23 of the transcript and --

23 Q. Yeah, I was, too.

24 (Counsel confer.)

25 **THE WITNESS:** On page 27 of the transcript, I

1 believe it said that it was -- he didn't leave until later
2 that night from Tiffany's to go back to Cambridge.

3 **BY MR. PURPURA:**

4 Q. Can you look at page 26, please?

5 A. Sure.

6 Q. 26, line 1149.

7 A. Yes, sir, I have it.

8 Q. And so does that refresh your recollection that it was --
9 does it appear to be the afternoon?

10 A. Yes, they said it's still daylight.

11 Q. Okay. Thank you.

12 And at the same time you asked him about who picked you
13 up; correct?

14 A. Yes.

15 Q. And the person that he told you who picked him up was
16 Junior; correct?

17 A. Yes.

18 Q. And at that point, you didn't know who Junior was; is
19 that correct?

20 A. That's right.

21 Q. But you now know who Junior is today, right?

22 A. Yes.

23 Q. And Junior is Wane Briscoe; correct?

24 A. Yes.

25 Q. And this is a picture -- Defense Exhibit 123, that's a

1 picture of Wane Briscoe; correct?

2 **MS. BRUSCA:** Objection. Basis?

3 **BY MR. PURPURA:**

4 Q. If you know. Do you know?

5 A. I do not.

6 **THE COURT:** Sustained.

7 **MR. PURPURA:** No problem.

8 **BY MR. PURPURA:**

9 Q. But again, he specifically told you that it was Junior?
10 I think he even said his cousin that picked him up; correct?

11 A. Yes, he just referred to him -- initially, I thought he
12 said June. That's why I asked if it was male or female, but
13 it was established that it was Junior, but that was the only
14 name that I had.

15 Q. And he said -- and you asked him, "Which cousin was that
16 that picked you up," and his response was Junior?

17 A. Yes.

18 Q. Okay. And then you asked him if Junior's male or female,
19 and he told you male, right?

20 A. Yes.

21 Q. He didn't give you someone else's name, to your
22 knowledge, a false name? He didn't say that Tommy Jones
23 picked me up or Bill Purpura picked me up; did he?

24 A. Well, I asked him if he knew Junior's whole name. He
25 said he didn't know, he just knew him as Junior.

1 Q. He didn't know his cousin's full name, he knew him as
2 Junior?

3 A. Correct.

4 Q. And his -- but Ms. Brusca asked you about the cell phone
5 and showed you some pictures of the cell phone. And Mr.
6 Briscoe was holding the cell phone in his hand, and Mr.
7 Briscoe told you that he just rebooted the cell phone;
8 correct?

9 A. Yes, but that was prior to -- prior to getting the phone.

10 Q. Prior to actually giving him the phone so he could turn
11 it on, right?

12 A. Correct.

13 Q. Now, do you know what rebooting -- do you know the
14 difference between rebooting and resetting a cell phone?

15 A. Do I know what the difference is?

16 Q. Yes.

17 A. I guess powering on a phone as opposed to resetting the
18 information from the phone.

19 Q. So rebooting is basically -- my phone is off right now.
20 To reboot you just going to power it back on again, correct,
21 that's your knowledge of rebooting?

22 A. Yes.

23 Q. Sometimes when you have cable TV and it's not working,
24 you got to try to reboot that as well by popping the plug out,
25 right?

1 A. Sure.

2 Q. It doesn't affect the data; does it?

3 A. Not that I'm aware of, no.

4 Q. I mean, on planes, sometimes some of us turn our phones
5 off completely, then when we land, we turn it back on again,
6 right?

7 A. Sure.

8 Q. Reboot, right?

9 A. Sure.

10 Q. You got all of your messages right back, right?

11 A. Correct.

12 Q. I know sometimes the names in these cases are difficult,
13 and especially when someone is traveling from Tiffany's to
14 Kiara's to Jennifer's, you know, it gets confusing. Is that
15 fair to say?

16 A. That's fair.

17 Q. Okay. And so you all, you, Detective Lewis, and
18 Detective Parker, you kind of went over that multiple times
19 with Mr. Briscoe to get it straight in your minds as well,
20 right?

21 A. That's right.

22 Q. And eventually you did have it straight when he gave you
23 the information he had. He started at Perkins, went to
24 Kiara's; correct?

25 A. Yes.

1 Q. Went to Jennifer's?

2 A. Yes.

3 Q. Spent the five hours there, came back to Kiara's?

4 A. That's right.

5 Q. Then back to Perkins, right?

6 A. Yes.

7 Q. Eventually, he did tell you about drug dealing; correct?

8 A. That's right.

9 Q. He told you that, in fact, Jen was Tony's, cousin Tony
10 Harris's connect; correct?

11 A. Say that again, I'm sorry.

12 Q. That Jen, Jennifer was Tony Harris's connection?

13 A. I don't recall him telling me specifically. I know that
14 they -- he said that she was selling and that she was trying
15 to sell to them down in Cambridge. I don't remember her --
16 him saying specifically to who, though.

17 Q. Let me see if I can find it for you. He told -- but he
18 told you that the product that she had was bad product;
19 correct?

20 A. Yes.

21 Q. Actually -- no strike that. And then you asked him about
22 a gun. Do you remember that?

23 **MS. BRUSCA:** Objection. Misstates.

24 **THE COURT:** Overruled.

25 **THE WITNESS:** Could you ask me that again, Counsel?

1 I'm sorry.

2 **BY MR. PURPURA:**

3 Q. You asked him about a gun?

4 A. No, sir.

5 Q. Turn to page 47, please.

6 You're -- strike that. I'm sorry. You're correct. Turn
7 to page 47 anyway.

8 A. I'm there.

9 Q. The conversation about a gun came up when Andre said to
10 you, "I don't even own a gun," right? That's line 2086.

11 A. Yes.

12 Q. And then you asked him, "If you needed to get one, could
13 you," right?

14 A. That's right.

15 Q. And what he said -- he didn't say, "No, I could never get
16 a gun;" did he?

17 A. No, he did not.

18 Q. What did he say?

19 A. He said, "Yeah, I'm pretty sure I could."

20 Q. Thank you. He was polite and cooperative --

21 A. Yes.

22 Q. -- the entire two hours; correct?

23 A. Yes.

24 Q. And then after the interview was complete, you all came
25 back to Baltimore; correct?

1 A. That's right.

2 Q. And Andre Briscoe remained in Cambridge on whatever
3 charge Cambridge had on those drugs in the house to your
4 knowledge, right?

5 A. Yes, sir.

6 **MR. PURPURA:** I have no further questions.

7 **THE COURT:** Thank you, Mr. Purpura.

8 Any redirect, Ms. Brusca?

9 **MS. BRUSCA:** We will have a little bit of redirect,
10 Your Honor. Do you want --

11 **THE COURT:** I guess we better break for lunch then
12 if you have --

13 **MR. PURPURA:** Judge, if she only has five minutes,
14 why not let her finish?

15 **MS. BRUSCA:** I think it will be a little more than
16 five minutes.

17 **THE COURT:** I can't hear you. I'm sorry.

18 **MS. BRUSCA:** I believe it will be a little more than
19 five minutes, Your Honor.

20 **THE COURT:** Okay. I suspect it would be. All
21 right. With that, we will take our recess.

22 You shouldn't discuss your testimony with anyone,
23 Detective Lewis, while you're having lunch, and we'll see you
24 back on the witness stand at 2 o'clock.

25 **THE WITNESS:** Yes, sir.

1 **THE CLERK:** This Court stands in recess.

2 (Jury exits courtroom 12:55 p.m.)

3 **THE CLERK:** This Court resumes its session. The
4 Honorable Richard D. Bennett, presiding.

5 **THE COURT:** I understand we had a little excitement
6 about the order of witnesses, but we've gotten that resolved
7 now; is that correct?

8 **MS. BRUSCA:** I think so, Your Honor, we -- I think
9 we are hoping and expecting to rest tomorrow, but somebody who
10 we thought we would call on Monday is not available, that's
11 David Azur, so we're going to call him today since he is
12 available this afternoon.

13 **THE COURT:** All right. Well, you know, with all due
14 respect, wherever he is -- you know, the tail doesn't wag the
15 dog here, I guess, to put it bluntly. So, you know, a
16 person's got to be there. We'll order him to be here, so it's
17 as simple as that. If you need a witness, I'll issue a
18 subpoena for a witness. I'm not going to -- the Court
19 calendar can't be at the mercy of one person.

20 **MS. BRUSCA:** No, no. I mean, it was -- I apologize,
21 maybe I put it poorly. What I meant was, we're happy because
22 we think we're going to be able to rest tomorrow, and I think
23 this witness is in the scheme of things --

24 **THE COURT:** Okay. So the next witness will be David
25 Azur from ATF.

1 **MR. PURPURA:** And I have no objection. We weren't
2 informed that he was testifying this afternoon. We'll be
3 ready to go forward.

4 **THE COURT:** Okay. The very next witness coming up
5 right this minute is whom?

6 **MS. BRUSCA:** Detective Lewis will come back to the
7 stand.

8 **THE COURT:** Okay. I'm sorry, that's right. Okay.
9 Yes. Bring Detective Lewis back in and we'll be fine.

10 **MS. BRUSCA:** Thank you, Your Honor.

11 **THE COURT:** That's right. We have redirect with
12 Detective Lewis.

13 **MS. BRUSCA:** Yes.

14 **THE COURT:** Thank you. Detective Lewis, if you'll
15 come forward here, sir.

16 (Witness resumes stand.)

17 **THE COURT:** With that, Mr. Gurevich, if you want to
18 get the jury. Thank you.

19 **THE CLERK:** All rise for the jury.

20 (Jury enters courtroom 2:15 p.m.)

21 **THE COURT:** Good afternoon, everyone, and we're
22 ready to continue with the redirect examination of Detective
23 Lewis.

24 Detective Lewis, you're obviously still under oath, sir.

25 Ms. Brusca?

1 **MS. BRUSCA:** Thank you, Your Honor.

2 R E D I R E C T E X A M I N A T I O N

3 **BY MS. BRUSCA:**

4 Q. Detective Lewis, you said that the Defendant told you on
5 the morning of Wednesday, May 27th, 2015, he never spoke to
6 Jennifer Jeffrey, that's right?

7 A. Yes.

8 Q. And he said that they were texting; is that correct?

9 A. Yes.

10 Q. That she never hit him back?

11 A. Correct.

12 **MR. PURPURA:** Objection, Your Honor. This is not
13 redirect. This is --

14 **MS. BRUSCA:** I'll rephrase, Your Honor.

15 **THE COURT:** It's within the realm of 611 to proceed,
16 and you can recross on this, Mr. --

17 **MR. PURPURA:** Thank you.

18 **THE COURT:** -- Purpura. You're certainly given the
19 latitude to recross.

20 **MS. BRUSCA:** Thank you, Your Honor.

21 **BY MS. BRUSCA:**

22 Q. And based on your investigation, Detective Lewis, that
23 wasn't true; was it?

24 A. That's right.

25 Q. When was the last phone call between Jennifer Jeffrey and

1 the Defendant?

2 A. It was 11:41 that day, meaning the 27th. And I believe
3 that the amount of time on the call was 111 seconds.

4 Q. And you also asked the Defendant during the interview for
5 his address; is that right?

6 A. Yes.

7 Q. And what address did he provide?

8 A. He provided 3443 Ravenwood Avenue in Baltimore.

9 Q. And based on your investigation, including what the
10 Defendant told you on that very day, did the Defendant stay at
11 that address?

12 A. No.

13 Q. In fact, he told you he moved to Cambridge; isn't that
14 right?

15 A. Yes.

16 Q. And did the Defendant tell you why Kiara and Jen came
17 down to Cambridge for the first time in connection with his
18 move?

19 A. That he hadn't seen -- that he hadn't seen Kiara in a
20 while.

21 Q. And she wanted to see him?

22 A. And she wanted to see him, yes.

23 Q. Now, when you asked the Defendant where he stayed in
24 Cambridge, did he give you addresses?

25 A. No.

1 Q. Did he give you the name of the cousin with whom he said
2 he sometimes stayed?

3 A. I think he said baby girl or something like that.

4 Q. So he said a baby girl and a cousin?

5 A. A baby girl and a cousin, yes.

6 Q. Did he give you their names?

7 A. No. No.

8 Q. Did he give you their addresses?

9 A. No.

10 Q. And with respect to next of kin --

11 **MS. BRUSCA:** May I just grab a board, Your Honor,
12 from the front.

13 **THE COURT:** Sure. What exhibit is that? I know
14 that's a blow-up exhibit.

15 **MS. BRUSCA:** This is 17.8A.

16 **THE COURT:** 17.8A.

17 **BY MS. BRUSCA:**

18 Q. And on this board, does the Defendant list anybody on his
19 next of kin?

20 A. Lillian Harris, he said was his grandmother.

21 Q. His grandmother.

22 And did he have contact information for her?

23 A. He did not.

24 Q. And what about the 12 or 14 other people on 17.8A?

25 A. No. When we went over the information sheet, he provided

1 Ms. Lillian Harris's name, and he gave his girlfriend, Tiffany
2 Jackson, I think the last name was.

3 Q. He didn't give any aunts or uncles?

4 A. No, ma'am.

5 Q. He didn't give any first cousins or second cousins?

6 **MR. PURPURA:** Objection.

7 **THE COURT:** Sustained. Sustained.

8 **BY MS. BRUSCA:**

9 Q. And based on your investigation, did you know how big the
10 Defendant's family was?

11 A. Initially, no. As the investigation progressed, I got to
12 learn that there were quite a few members of his family.

13 Q. And the two folks that were next of kin were Lillian
14 Harris and Tiffany Jackson?

15 A. Yes.

16 Q. I believe you testified that the Defendant told you he
17 was picked up from Tiffany Jackson's house by Junior; is that
18 correct?

19 A. Yes.

20 Q. And did he tell you Junior's name?

21 A. No.

22 Q. What about that Junior was his first cousin?

23 A. I'm sorry?

24 Q. What about that Junior was his first cousin?

25 A. I believe he did say that.

1 Q. And what about where Junior lived?

2 MR. PURPURA: Objection.

3 THE COURT: Overruled.

4 BY MS. BRUSCA:

5 Q. What about where Junior lived?

6 A. He did not.

7 Q. What about Junior's phone number?

8 MR. PURPURA: Objection.

9 THE COURT: Overruled.

10 MR. PURPURA: It wasn't asked --

11 THE COURT: Overruled. Overruled.

12 BY MS. BRUSCA:

13 Q. And what about the intersection where Defendant told you
14 he picked up a hack to get from Defendant's house back to
15 Tiffany Jackson's on the morning of May 27th, did the
16 Defendant tell you that?

17 A. No.

18 Q. And you were asked on cross-examination if the Defendant
19 told you what time of day he returned to Tiffany Jackson's
20 house on May 27th; is that right?

21 A. Yes.

22 Q. And you said that the Defendant told you it was daylight;
23 is that right?

24 A. Yes.

25 Q. If I could -- he also told you more specifically that it

1 wasn't even afternoon; is that right?

2 A. Yes.

3 Q. And noon is at 12:00 p.m.; is that right?

4 A. Yes.

5 Q. When you talked to the Defendant about who was at Tiffany
6 Jackson's, did the Defendant provide you the name of his
7 homeboys?

8 A. No.

9 Q. What about their phone numbers?

10 A. No.

11 Q. What about their addresses?

12 A. No.

13 Q. And turning to the day before, on Tuesday, May 26th, the
14 Defendant told you he had been at Tiffany's house with Kiara;
15 is that right?

16 A. Yes.

17 Q. And you testified that he told you that Kiara didn't want
18 to go home by herself, so he dropped Kiara off; is that right?

19 A. That's right.

20 Q. Did he tell you it took him two hours to get from
21 Tiffany's to Kiara's?

22 A. Yes.

23 Q. He told you it took him two hours to go across Baltimore?

24 A. No, I never got a specific time, no. He just told me
25 where he was going from one place to the next. There was

1 never any specific time.

2 Q. Did he tell you if he stopped anywhere along the way?

3 A. No.

4 Q. Now, Detective Lewis, have you investigated sex crimes?

5 A. Have I investigated a what? I'm sorry.

6 Q. Sex crimes.

7 A. No.

8 Q. Are you aware whether having no semen means there was no
9 sex?

10 **MR. PURPURA:** Objection.

11 **THE COURT:** Sustained. He's already said he hasn't
12 investigated sex crimes. Objection sustained. It's an
13 improper line of questioning.

14 **MS. BRUSCA:** All right.

15 **BY MS. BRUSCA:**

16 Q. Based on your investigation, did you believe that the
17 Defendant was having sex with Jennifer Jeffrey?

18 **MR. PURPURA:** Objection.

19 **THE COURT:** Sustained.

20 **MS. BRUSCA:** No further questions, Your Honor.

21 **THE COURT:** All right. Mr. Purpura, recross on some
22 of these points you were concerned about?

23 **MR. PURPURA:** If I could have one second, Judge. I
24 apologize.

25 R E C R O S S - E X A M I N A T I O N

1 **BY MR. PURPURA:**

2 Q. Ms. Brusca asked you about Junior. When you asked Andre
3 Briscoe, "Who picked you up," he indicated it was his cousin
4 Junior; is that correct?

5 A. Yes, but, again, I heard him -- initially, I thought he
6 said June, and that's why I asked if June was male or female.

7 Q. Right. And Ms. Brusca showed you the board with the
8 family and the nicknames, and you see a nickname for Wane
9 Briscoe?

10 A. Yes, sir.

11 Q. And what did the Government put down as the nickname for
12 Wane Briscoe?

13 A. Junior.

14 Q. Is it difficult for a homicide detective like yourself to
15 find out which cousin Andre Briscoe was referring to as
16 Junior?

17 A. Please ask me that again, I'm sorry.

18 Q. Would it be difficult for a homicide detective to figure
19 out which of the cousins was referred to as Junior?

20 A. There is no straight answer to that question, and I say
21 that because No. 1, the size of his family. And 2, depending
22 on who I was speaking to at the time, there was no one to
23 offer Junior's name. But I guess the direct answer that
24 you're looking for, I would say in this particular case, no.

25 Q. Thank you.

1 And Ms. Brusca asked you, did Andre Briscoe ever give you
2 Junior's telephone number? Do you remember that, she asked
3 you that?

4 A. Yes, yes, she did.

5 Q. Did you ever ask for Junior's telephone number?

6 A. No, I think I asked what his name was, but I never got a
7 name.

8 Q. And you didn't ask for any other information about
9 Junior, other than what his full -- what his Government name
10 would be; correct?

11 A. Correct.

12 Q. 3442 Ravenwood Avenue, that is Andre Briscoe's aunt's
13 house in 2015?

14 A. He advised me that was his grandmother's house.

15 Q. His grandmother's then?

16 A. Yes.

17 Q. And the person he noted as his grandmother and as a
18 contact person was the very head person on this Government
19 Exhibit, Lillian Harris; correct?

20 A. Yes, sir.

21 **MR. PURPURA:** Thank you. No further questions.

22 **THE COURT:** All right. Thank you, Mr. Purpura.

23 Detective Lewis, you may step down. Again, you shouldn't
24 discuss your testimony with anyone in the event you're called
25 back a third time to the witness stand. I doubt that will be

1 the case, but just don't discuss this testimony until this
2 case concludes.

3 **THE WITNESS:** Yes, Your Honor.

4 **THE COURT:** Thank you very much.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** All right. With that, Ms. Brusca, the
7 next Government witness.

8 **MS. BRUSCA:** It will be -- the Government calls Dave
9 Azur.

10 **THE COURT:** Would you come forward here, sir, and be
11 sworn for one second.

12 Wait one second. Thank you, Mr. Gurevich. Swear the
13 witness, please.

14 **THE CLERK:** Raise your right hand for me, please.

15 **DAVID AZUR,** having been duly sworn, was examined and
16 testified as follows:

17 **THE WITNESS:** Yes, sir, I do.

18 **THE CLERK:** While speaking clearly into the
19 microphone, can you please state and spell your full name for
20 the record.

21 **THE WITNESS:** Sure. My name is David Azur. It's
22 D-a-v-i-d, A-z-u-r.

23 **THE COURT:** Mr. Azur, sir, under the -- I'm Judge
24 Bennett, the Presiding Judge here. Under the standing orders
25 of the Court, masks are to be worn in all public areas of the

1 courthouse with the exception of in the courtroom if, in the
2 discretion of the Presiding Judge, a person has been fully
3 vaccinated, so I'm inquiring of the vaccination status of
4 anyone who comes in.

5 Have you been fully vaccinated, sir?

6 **THE WITNESS:** Yes, Your Honor.

7 **THE COURT:** All right. So you don't have to, but
8 you can pull your mask down when responding to the Government
9 questions.

10 **THE WITNESS:** Thank you, Your Honor.

11 **THE COURT:** Thank you.

12 D I R E C T E X A M I N A T I O N

13 **BY MS. BRUSCA:**

14 Q. Hi, Detective Azur.

15 A. Good afternoon, ma'am.

16 Q. How are you employed?

17 A. I'm sorry?

18 Q. How are you employed?

19 A. I am a detective with the Baltimore Police Department. I
20 have been with the police department for almost 29 years. The
21 last 14 and a half years, I've been assigned to the ATF as a
22 task force officer where I investigate federal firearm and
23 narcotic violations.

24 Q. And what was your assignment in May 2020?

25 A. I was assigned to the ATF as a task force officer.

1 Q. On May 22nd, 2020, did you participate in the arrest and
2 later interview of the Defendant, Andre Briscoe?

3 A. Yes, I did.

4 Q. And do you see Mr. Briscoe in the courtroom?

5 A. To the --

6 **MR. PURPURA:** We'll stipulate again.

7 **THE COURT:** The record will reflect the witness has
8 identified the Defendant, Andre Briscoe.

9 **MS. BRUSCA:** Thank you.

10 **BY MS. BRUSCA:**

11 Q. And was the Defendant arrested pursuant to a Federal
12 search warrant?

13 A. Federal arrest warrant, yes.

14 Q. Excuse me. Thank you.

15 And can you walk us through the arrest that morning,
16 starting --

17 **THE COURT:** What is the date of this, again, Ms.
18 Brusca? I'm sorry.

19 **MS. BRUSCA:** May 22, 2020, Your Honor.

20 **THE COURT:** All right. Thank you.

21 **BY MS. BRUSCA:**

22 Q. And can you walk us through the arrest that morning,
23 starting with how the Defendant was taken into custody?

24 A. Sure. So when we execute an arrest warrant, we have a
25 team that does it. Agent Weaver is the case agent on the team

1 for this case, and he compiled a team of us that would go out
2 and conduct the arrest. There were maybe eight or ten of us,
3 perhaps, on the arrest team.

4 The Defendant was at work. We staged in the morning,
5 talked about how we're going to do the arrest. He was
6 apparently a construction worker at a construction site, so we
7 went to the construction site. There was -- either Agent
8 Weaver or another agent had conversations with the Defendant's
9 supervisor, had made arrangements for the supervisor to go
10 pick up the Defendant and bring him back to the central
11 location where there was, like, a trailer, like, an office.

12 While we were staged in separate vehicles in the parking
13 lot around that area, the supervisor went and got the
14 Defendant in, like, a four-wheeler or Gator type of vehicle
15 and returned to the location. As he returned to the location,
16 the supervisor got out of the vehicle, and the arrest team
17 converged on the Gator and placed the Defendant under arrest.

18 Q. And at the time of his arrest, was the Defendant advised
19 of his rights?

20 A. Yes.

21 Q. And who advised him of his Miranda Rights?

22 A. Agent Weaver.

23 Q. Were you present?

24 A. I was.

25 Q. And did you see Agent Weaver use anything to assist him

1 in his advisement?

2 A. He read from a card.

3 Q. And I'm going to put up on the overhead Government's
4 Exhibit 17.16. If I can provide the Court a copy, this is a
5 new one if you'd like.

6 And how was this advisement card used to advise the
7 Defendant of his rights?

8 A. It was read to him.

9 Q. And whose signature is there under the waiver section?

10 A. That is the Defendant's.

11 Q. So the Defendant agreed to speak with you?

12 A. Yes.

13 Q. And whose signature is under the witness line?

14 A. That is Agent Weaver's.

15 Q. And below that?

16 A. That is mine.

17 Q. And what time on May 22nd?

18 A. I signed at 9:08 a.m.

19 Q. Did the Defendant indicate if he understood his rights?

20 A. Yes, he did.

21 Q. And was he transported to another location for the
22 interview?

23 A. From the arrest scene, he was transported to the ATF
24 office.

25 Q. And who transported him?

1 A. Agent Weaver and myself.

2 Q. And do you recall about how long after the arrest the
3 interview took place?

4 A. Perhaps an hour.

5 Q. And was the Defendant then interviewed?

6 A. Yes.

7 Q. Was the interview recorded?

8 A. Yes, it was.

9 Q. And at that time, was the Defendant advised a second time
10 of his rights?

11 A. Yes, he was.

12 Q. Oh, I think what I -- okay. All right.

13 And can you describe the room where the interview took
14 place?

15 A. Sure. It's a small interview room. There is a table, a
16 wooden table, with a chair on one side of it and two chairs on
17 the other side and one door that enters and exists.

18 Q. Was there anyone else present during?

19 A. Just myself and Agent Weaver.

20 Q. And was the Defendant told he had to participate in the
21 interview?

22 A. No.

23 Q. All right. I'm going to play now Government's
24 Exhibit 18.8.

25 **MS. BRUSCA:** And before we do that, Your Honor, if I

1 could pass out 18.8T.

2 **THE COURT:** Once again, same rule applies. The
3 recording comes into evidence. The transcript is just for
4 your edification and for your benefit. You determine what you
5 hear or don't hear. This is what the Government believes is
6 on the tape.

7 **MS. BRUSCA:** I'm now playing Government's
8 Exhibit 18.8, which is approximately 45 minutes, I think a
9 little less.

10 **THE COURT:** I'm sorry, about how long is this going
11 to be?

12 **MS. BRUSCA:** About 45 minutes, Your Honor.

13 **THE COURT:** About 45 minutes. That's fine. All
14 right.

15 (Recording played but not reported.)

16 **THE COURT:** All right. That will end the tape.

17 **MS. BRUSCA:** That ends the tape, Your Honor.

18 **THE COURT:** The record will reflect that the
19 Government's Exhibit 18.8 was played in its entirety and has
20 now been completed, and the tape is in evidence.

21 **MS. BRUSCA:** Thank you.

22 **BY MS. BRUSCA:**

23 Q. And TFO Azur, to avoid any doubt, whose voices do we hear
24 primarily on that call?

25 A. Agent Weaver and --

1 **THE COURT:** You have to keep your voice up, sir, and
2 speak into the microphone.

3 **THE WITNESS:** Yes, Your Honor, I'm sorry.
4 Agent Weaver's voice and the Defendant's voice.

5 **MS. BRUSCA:** No further questions, Your Honor.

6 **THE COURT:** Any questions of Officer Azur,
7 Mr. Purpura?

8 **MR. PURPURA:** Your Honor, it's 3:30. I do have some
9 questions, whatever the Court wants me to do.

10 **THE COURT:** You all want to take a break? Yeah, I
11 think -- one of the jurors would like to have a break, so
12 we'll take a ten-minute recess, start again in ten minutes.

13 Mr. Azur, you should not talk with anyone about your
14 testimony during the break.

15 **THE WITNESS:** Yes.

16 **THE COURT:** Thank you very much.

17 **THE CLERK:** All rise. Court stands in recess.

18 (Jury exits courtroom 3:31 p.m.)

19 (Short recess taken.)

20 **THE CLERK:** This Court resumes its session. The
21 Honorable Richard D. Bennett is presiding.

22 **THE COURT:** All right. With that, we'll bring the
23 jury back in.

24 **THE CLERK:** All rise for the jury.

25 (Jury enters courtroom 3:52 p.m.)

1 **THE COURT:** Thank you, Mr. Gurevich.

2 And with that, we'll continue now with Detective Azur
3 with cross-examination.

4 Mr. Purpura?

5 **MR. PURPURA:** Your Honor, thank you.

6 C R O S S - E X A M I N A T I O N

7 **BY MR. PURPURA:**

8 Q. Good afternoon, Detective.

9 A. Good afternoon, sir.

10 Q. Detective, I'm just going to take you back briefly to
11 May 22nd, 2020. This is the takedown, the arrest of Andre
12 Briscoe. You indicated there was eight to ten task force
13 officers involved in the arrest of Mr. Briscoe?

14 A. Or special agents.

15 Q. Or special agents. Thank you.

16 And the construction site just -- was it in Baltimore
17 City, Baltimore County?

18 A. It was in Baltimore County.

19 Q. And at that point, you knew that Mr. Briscoe was
20 employed, working construction; correct?

21 A. That's what I was told.

22 Q. You were told this, I assume -- there is, as you
23 mentioned, a meeting. You all get together to say, "What are
24 we going to do? How are we going to do it;" correct?

25 A. Yes, that's correct.

1 Q. So you go to the construction site, you speak -- someone
2 speaks to the supervisor there and Mr. Briscoe is not in
3 eyesight at that point?

4 A. That's correct.

5 Q. And then the plan is that the supervisor is going to go
6 out under some ruse, say, "We need you back" wherever and put
7 him in the Gator and bring them back to you-all; correct?

8 A. Yes.

9 Q. So he does that, you see Mr. Briscoe coming back. He's
10 sitting in the Gator. A Gator is a -- I guess we all know
11 what it is. It's green and it's got four wheels and it's
12 open, right?

13 A. Yes, that's correct.

14 Q. And so when he comes back, the supervisor, I would
15 assume, gets out of the Gator and Mr. Briscoe was still in the
16 Gator at that point?

17 A. Yes, that is correct.

18 Q. And that's for the -- I would assume, again, for the
19 supervisor's safety?

20 A. Yes.

21 Q. And so at that point, eight to ten or whatever number of
22 agents and task force officers come out and arrest
23 Mr. Briscoe; correct?

24 A. Yes, that is correct.

25 Q. At any point, did Mr. Briscoe attempt to get up from that

1 Gator and run?

2 A. No, he did not.

3 Q. At any point, did Mr. Briscoe resist the arrest of you
4 ATF agents and task force officers?

5 A. No, he did not.

6 Q. He was then handcuffed; correct?

7 A. Yes.

8 Q. And then he was taken in a vehicle to the ATF field
9 office?

10 A. Yes, that is correct.

11 Q. The ATF field office -- we just heard the conversation,
12 which was recorded, to your knowledge, would be either, I
13 guess, three years now, ATF task officer?

14 A. Fourteen.

15 Q. My mistake, sorry.

16 Fourteen years. Is it video-equipped as well?

17 A. There is video-equipped, but the video equipment did not
18 work.

19 Q. Okay. So the only thing we have is the recording itself;
20 correct?

21 A. Yes, that is correct.

22 Q. Now, specifically as to you, what part did you have in
23 this investigation?

24 A. I did not conduct any part of the investigation itself.
25 I was asked to assist, to be part of the arrest team, which I

1 was, and then Agent Weaver asked if I would sit in on the
2 interview as well.

3 Q. And not to minimize anything you did, but what you did
4 was, on May 22nd, we already heard, you were involved in the
5 arrest team of Andre Briscoe, and that was a success; correct?

6 A. Yes.

7 Q. And the second thing you did, as part of this
8 investigation, was that you sat in on the interview of Andre
9 Briscoe; correct?

10 A. Yes, that is correct.

11 Q. And other than that, respectfully, you don't know
12 anything else about this case?

13 A. I do not. I was not part of the investigation.

14 Q. Obviously -- and the person who conducted the
15 interview -- I don't think I heard you at all. Did you ask
16 any questions?

17 A. No, I did not.

18 Q. So it was Special Agent Weaver, the gentleman to my left,
19 who conducted the entire interview; correct?

20 A. Yes, that is correct.

21 Q. And it's -- Special Agent Weaver, to your knowledge, is
22 the case agent on this particular case; correct?

23 A. Yes, that is correct.

24 Q. All right. You were present, though, when Mr. Briscoe
25 was advised of his rights?

1 **THE COURT:** What exhibit number is that?

2 **MR. PURPURA:** Sorry, 17.6, Your Honor.

3 **THE WITNESS:** Yes, I was present.

4 **BY MR. PURPURA:**

5 Q. And, in fact, it appears to you -- I'm asking. I should
6 make that a question.

7 Did it appear to you that Mr. Briscoe understood what his
8 rights were?

9 A. Yes.

10 Q. And did it appear to you that he voluntarily agreed to
11 waive his rights and sign the agreement?

12 A. Yes.

13 Q. From when he first came in and when you first had him
14 there, did he ask for a lawyer at that point?

15 A. No, he did not.

16 Q. Did he tell you that he had a lawyer any time between
17 2015 and 2020?

18 A. No, he did not.

19 Q. And other than actually listening to what was said by
20 Mr. Briscoe during the interview itself, you don't really have
21 any other direct knowledge of this investigation; is that also
22 correct?

23 A. No. That is correct.

24 Q. You may have participated in a search warrant
25 execution -- may or may not have participated in a search

1 warrant execution, but other than that you have no knowledge
2 of the investigation?

3 A. That is correct.

4 Q. So you have no knowledge if he was being truthful or
5 untruthful about going to Perkins, the projects, or any of
6 that information; do you?

7 A. No, I do not.

8 Q. Did you, at all, at least review his 2015 statement to
9 Baltimore City homicide detectives Parker and Lewis?

10 A. No, I have not seen that statement.

11 Q. So you don't know if it's consistent or inconsistent with
12 what he told those detectives?

13 A. I do not, no.

14 **MR. PURPURA:** All right. And with that, I have no
15 further questions.

16 **THE COURT:** Thank you, Mr. Purpura.

17 Detective Azur, you may step down. You shouldn't discuss
18 your testimony with anyone in the event you would be called
19 back to the witness stand before this trial concludes.

20 Thank you very much.

21 **THE WITNESS:** Yes. Thank you, Your Honor.

22 **THE COURT:** All right. The next witness, Mr.
23 Budlow?

24 **MR. BUDLOW:** Thank you, Your Honor. The
25 Government's next witness is Tonya Harris.

1 **THE COURT:** All right. Ms. Harris, come forward
2 here, please.

3 **THE CLERK:** Right here to the witness stand.

4 And if you would just remain standing and raise your
5 right hand for me, please.

6 **TONYA HARRIS,** having been duly sworn, was examined and
7 testified as follows:

8 **THE WITNESS:** Yes.

9 **THE COURT:** And while speaking clearly into the
10 microphone, can you please state and spell your full name for
11 the record.

12 **THE WITNESS:** Tonya Harris, T-o-n-y-a, H-a-r-r-i-s.

13 **THE COURT:** Ms. Harris, good afternoon. I'm Judge
14 Bennett, the Presiding Judge here. As I've been discussing
15 with other witnesses, the standing orders of this Court
16 provide that in all public areas of the courthouse, masks are
17 to be worn. But in the discretion of the Presiding Judge in
18 the courtroom, if persons have been fully vaccinated, they can
19 pull their masks down while speaking, they don't have to, and
20 they can take their masks off while speaking.

21 Have you been fully vaccinated?

22 **THE WITNESS:** No, I have not.

23 **THE COURT:** All right. Then you should keep your
24 mask on at all times and keep your voice up and speak clearly
25 into the microphone for the benefit of Ms. Clark, the court

1 reporter. Thank you very much.

2 Mr. Budlow?

3 **MR. BUDLOW:** Thank you.

4 D I R E C T E X A M I N A T I O N

5 **BY MR. BUDLOW:**

6 Q. Good afternoon, Ms. Harris.

7 A. Good afternoon.

8 Q. Could you tell us where you live, what part of Maryland?

9 A. Cambridge.

10 Q. And how old are you?

11 A. Thirty-one.

12 Q. Do you have the same phone number now you had in 2015?

13 A. Yes.

14 Q. And what is that?

15 A. (443) 205- --

16 **THE COURT:** You have to keep your voice up and speak
17 into the microphone.

18 **THE WITNESS:** I'm sorry, (443) 205-9101.

19 **THE COURT:** 91?

20 **THE WITNESS:** 9101.

21 **THE COURT:** Thank you.

22 **BY MR. BUDLOW:**

23 Q. 9101?

24 A. Yes.

25 Q. Even though you are answering my questions, because the

1 microphone is where the jury is, maybe look towards them.

2 A. Okay.

3 Q. Do you have any children?

4 A. Yes.

5 Q. Just tell us how many and their ages.

6 A. Four. One is 14, 12, 6, and 2.

7 Q. Do you have any siblings?

8 A. Yes.

9 Q. How many?

10 A. Five. No, four, I'm sorry.

11 Q. Tell us their names.

12 A. I have an older sister. Her name is Keisha. A sister
13 named Victoria, older brother named Terrell, and a twin
14 brother, his name is Tony.

15 Q. And where did you grow up?

16 A. All over Maryland. Mainly Baltimore and Cambridge.

17 Q. And who were you raised by?

18 A. My grandmother, Lillian Harris.

19 Q. Do you know the Defendant, Andre Briscoe, seated to the
20 right in the blue shirt?

21 A. Yes.

22 Q. Are you related to Mr. Briscoe?

23 A. Yes, we're first cousins.

24 Q. And how is it that you're first cousins? Who's --

25 A. Our fathers are brothers.

1 Q. Did you grow up with the Defendant?

2 A. Yes.

3 Q. And where?

4 A. In Baltimore.

5 Q. In other places, too?

6 A. Yes.

7 Q. So when you said, "We moved around," did the Defendant
8 move around, too?

9 A. Yes.

10 Q. What's the age difference?

11 A. I think he's, like, I want to say, ten years older than
12 me or something like that.

13 Q. How many kids, and not necessarily all children, but of
14 that generation lived in that house at one time?

15 A. All of us, so, like, 15, maybe 16 people.

16 Q. Was that group close as children?

17 A. Yes.

18 Q. Were you close with the Defendant when you were younger?

19 A. Yes, he was -- like, I'm closer to him more than I am my
20 brothers, so yes.

21 Q. And did you become closer with him as an adult than you
22 were as a child?

23 A. Yes.

24 Q. When was it, if you recall, that you became closer to the
25 Defendant?

1 A. Maybe 2013, something like that, when he --

2 Q. Do you remember -- well, that's a terrible question.

3 I want to draw your attention to the time when you were
4 pregnant with your daughter Ryan.

5 A. Yes.

6 Q. Did you become -- were you close with the Defendant at
7 that time?

8 A. Yes.

9 Q. And from February to 2015, if you know, did the Defendant
10 have a regular job?

11 A. No, not that I recall.

12 Q. Do you know where he was living at that time?

13 A. Baltimore.

14 Q. Where were you living?

15 A. Cambridge.

16 Q. 502 Greenwood?

17 A. Yes.

18 Q. How long had you been there in 2015?

19 A. Over five years, maybe like seven. I'll stretch and say
20 seven.

21 Q. And who was living there?

22 A. Me, my two children at the time, and my father.

23 Q. And how about your mother?

24 A. Yes, she was there.

25 Q. Now, had she lived there and then --

1 A. I put her out, but she was --

2 Q. Why did you put her out?

3 A. She steals bad.

4 Q. You said she steals?

5 A. Yes.

6 Q. Are you currently employed?

7 A. Yes.

8 Q. Where do you work?

9 A. McDonald's.

10 Q. What's your title there?

11 A. Manager.

12 Q. And how long have you been at the McDonald's as a
13 manager, or how long have you been there total?

14 A. Eight years.

15 Q. And how long have you been a manager?

16 A. Seven.

17 Q. Okay. Do both of your parents have drug addictions?

18 A. Yes.

19 Q. And do you know what the drugs of choice are?

20 A. Heroin and crack cocaine.

21 Q. So back to the Defendant, in early 2015 through June of
22 2015, do you know what he was doing for money?

23 Just yes or no initially.

24 A. Yes.

25 Q. How do you know?

1 A. I mean, it's just the family, you know, like, it's...

2 Q. In early 2015, did the Defendant ask you for money?

3 A. Yes.

4 Q. What did he tell you it was for?

5 A. To reup.

6 Q. To reup?

7 A. Get on, yeah.

8 Q. And how much did he ask for?

9 A. It was a couple of hundred. I think it was around tax
10 time, so it probably would have been, like, 1200, something
11 like that.

12 Q. What does it mean to reup?

13 A. To buy drugs.

14 Q. Ms. Harris, do you -- did you then and do you now have
15 any rules about drugs in your house?

16 A. It's not allowed.

17 Q. Was the Defendant aware of those rules?

18 A. Yes, he knows.

19 Q. Now, how is it that you can have those rules in your
20 house if your father lived with you, and you said that he was
21 an addict?

22 A. Because my father will go out and get high. Like, he
23 know not to get high in my house, so he will go out and get
24 high wherever he would -- wherever he get his drugs at, that's
25 where he use it at.

1 Q. Now, back to the Defendant, in this spring of 2015, did
2 he spend time regularly at your home?

3 A. Sometimes when I was at work, he would pop up.

4 Q. Did he ever spend the night?

5 A. No, it wasn't likely.

6 Q. I heard no, but I didn't hear what you said after that.

7 A. No, it wasn't likely for him to spend a night.

8 Q. Ms. Harris, do you love your cousin Andre Briscoe?

9 A. Yes.

10 Q. And you said you got closer to him in the 2013 and '14
11 timeframe. Did he ask you about having a role in your
12 daughter's life?

13 A. Yes, he's Ryan's godfather.

14 Q. Did he ask you to be Ryan's godfather?

15 A. Yes.

16 Q. And you said he is Ryan's godfather?

17 A. He is.

18 Q. Did other family members, besides the Defendant, hang at
19 your house specifically in the spring of 2015?

20 A. My twin, Tony. My parents, of course, well, maybe my
21 father. And that was really about it.

22 Q. Now, you were working full-time at the time?

23 A. Yes.

24 Q. Would you ever see Al Harris at your house?

25 A. Yeah.

1 Q. And what about Junior?

2 A. He would stop by.

3 Q. And then your older brother, he has a nickname?

4 A. Fats.

5 Q. Is Fats or Fatman the same person?

6 A. Yes.

7 Q. Would he be at your house sometime in the spring of 2015?

8 A. Yes.

9 Q. Do you know a person named Kiara Haynes?

10 A. Yes.

11 Q. Can you tell us when and how you met Ms. Haynes?

12 A. I met her, I don't know the date, but one night when I
13 got off work. It was, like, late, around like 12:00 a.m.

14 Q. And who was she with?

15 A. She was with Poo, Tony, Jennifer. It was the four of
16 them at my house.

17 Q. And when you say "Poo," you're referring to the
18 Defendant?

19 A. Yes.

20 Q. And was this in early 2015?

21 A. Yes.

22 Q. And is Ms. Haynes also related to you?

23 A. Yes, she's my cousin.

24 Q. The same, first cousin like the Defendant or a more
25 distant cousin?

1 A. Distant.

2 Q. Are your grandmothers sisters?

3 A. Yes.

4 Q. Had you ever met her previously to your memory?

5 A. No.

6 Q. Had you ever met Jen prior to that day?

7 A. No.

8 Q. The Defendant and Ms. Haynes, to your knowledge, are they
9 also cousins?

10 A. Yes.

11 Q. Did you become aware that their relationship was more
12 than just cousins?

13 A. Yes.

14 Q. And how did you learn of that?

15 A. Andre told me.

16 Q. Now, you said that night that you met Ms. Haynes you also
17 met Ms. Jeffrey?

18 A. Yes.

19 Q. And this was at your home?

20 A. Yes.

21 Q. Do you know if Ms. Jeffrey and Tony, your twin brother,
22 had already met before that night?

23 A. Yes, they did.

24 Q. Now, following that night when you first met Kiara and
25 Jen, would you see them in Cambridge only?

1 A. Yes.

2 Q. And where would you see them?

3 A. At my grandmother's house.

4 Q. Is that on Hughlett?

5 A. Yes.

6 Q. And who would you see them with?

7 A. Andre and Tony, if you could find Tony, my twin.

8 Q. Say it again.

9 A. Andre and Tony.

10 Q. In the spring of 2015, to your knowledge, were your
11 parents using drugs?

12 A. Yes.

13 Q. And was your mom using heroin?

14 A. Yes.

15 Q. And was your father both using heroin and crack?

16 A. Yes.

17 Q. Around that same time, did you ever talk to the Defendant
18 about his source for drugs?

19 A. Yes.

20 Q. Who was part of that conversation?

21 A. It was a group. I mean, it was me, him, Tone -- no, I
22 don't think Tony was there, just me and him. We always --

23 Q. Go ahead.

24 A. Me and him always talk like it was -- that was my
25 replacement for my other two brothers.

1 **THE COURT:** You need to speak more clearly into the
2 microphone so the jury can understand you, please.

3 **THE WITNESS:** That was my replacement for my
4 brothers was him, so we talked frequently.

5 **BY MR. BUDLOW:**

6 Q. And what did you learn about where the Defendant was
7 getting his drugs?

8 A. Where did I learn it?

9 Q. Sorry. Did he tell you where he was getting his drugs
10 from?

11 A. Yes.

12 Q. Who did he tell you he was getting them from?

13 A. Jennifer.

14 Q. And have you heard the term "plug" before?

15 A. She the plug.

16 Q. And is that what he said to you?

17 A. Yes.

18 Q. Did you learn if Jen was also the plug for Tony?

19 A. Yes.

20 Q. And how did you learn that?

21 A. At the same -- the same conversation, him and Tony got
22 the same stuff, they were --

23 Q. To your knowledge, did your father act as a tester for
24 heroin?

25 A. Yes.

1 Q. And was that in exchange for free drugs?

2 A. Yes.

3 Q. All right. Moving to June the 5th, 2015, do you remember
4 the police searching your apartment?

5 A. Yes.

6 Q. Did you know that the Defendant and Tony were even in
7 your house at the time of the search warrant?

8 A. No, I did not.

9 Q. Were they there when you went to sleep the evening
10 before?

11 A. No.

12 Q. And where were you physically located within the
13 apartment when the search occurred?

14 A. In a back bedroom, my bedroom.

15 Q. When you went to bed that night who else was in the
16 house, to your knowledge?

17 A. My father, my two kids, my boyfriend and me. That was
18 it. Oh, Damonte.

19 Q. And you said your boyfriend. Is that Ronnell Bivens?

20 A. Yes.

21 Q. Now, in terms of the layout of your home, when you walk
22 straight in, there's a hallway with eventually three bedrooms;
23 correct?

24 A. Yes.

25 Q. The one straight ahead, so the middle bedroom --

1 A. Is my children room.

2 Q. -- whose bedroom is that?

3 A. My children room, yes.

4 Q. If you turn right into the hallway on the left, there's a
5 bedroom. Whose bedroom is that?

6 A. It's the room my father stayed in.

7 Q. And if you turn left and go straight, there's another
8 bedroom at the end of the hallway. Whose is that?

9 A. My bedroom.

10 Q. You mentioned Damonte was also there?

11 A. Yes.

12 Q. Who is that?

13 A. My cousin.

14 Q. Tell us what happened when you heard -- or what you first
15 heard that morning of the search.

16 A. I heard a loud knock on the door. I got up, and all I
17 heard was, "Everybody get down, everybody get down." And when
18 I walked into the living room. I had a bunch of police
19 surrounding me with guns pointed at me, and I'm like eight and
20 a half months pregnant, so I'm terrified, like, "What's going
21 on?" And then I see my uncle Alfred Harris, my twin, Tony
22 Harris; Andre, and Damonte in the living room.

23 Q. What did you do?

24 A. I went off.

25 Q. Okay. Actually, before you went off, were you told to

1 get down?

2 A. Yes.

3 Q. Were you able to get down?

4 A. I couldn't get down. I'm eight and a half months
5 pregnant.

6 Q. And did you tell the officers that?

7 A. Yes.

8 Q. And then you said you went off. Do you mean yelling at
9 people?

10 A. Yes.

11 Q. Who were you yelling at?

12 A. Tony and Andre.

13 Q. And did you learn from them how they got in?

14 A. Yes.

15 Q. What did they tell you?

16 A. My dad let them in.

17 Q. You said your dad let them in?

18 A. Yes.

19 Q. Did you hear Tony say anything to the police?

20 A. Yeah, they wasn't going to find anything.

21 Q. Did you speak to Detective Howard or Corporal Howard that
22 day?

23 A. Yes.

24 Q. Was your brother Terrill Harris, Jr., Fatman, present in
25 your apartment at the time of the search?

1 A. No, he was not.

2 Q. Before the police left, did you see him?

3 A. Outside, yes.

4 Q. What was he doing outside?

5 A. Walking around.

6 Q. Did he come --

7 **MR. PURPURA:** I'm sorry, I can't hear.

8 **MR. BUDLOW:** Sorry, I'll repeat it.

9 **BY MR. BUDLOW:**

10 Q. Did you say waking around?

11 A. Yes, he was walking around.

12 Q. All right. So you looked outside the window?

13 A. The door was wide open.

14 Q. Did he come in the apartment at some point?

15 A. After everyone left, yes.

16 Q. And when you say everyone, you mean after the police
17 left?

18 A. Yes.

19 Q. When he came in, describe what you saw him do.

20 A. He walked past me and went straight to the back bedroom
21 where my father slept.

22 Q. The room where your father slept?

23 A. Yes.

24 Q. When he came back, did he say anything to you? Just yes
25 or no.

1 A. Yes.

2 Q. When he said something to you, was he talking about what
3 he was then doing?

4 A. Yes.

5 Q. And what did he say?

6 A. They didn't get it and -- he was like, "See, they didn't
7 get it" and left out like right past me.

8 Q. You said he said, "See, they didn't get it"?

9 A. They didn't get it, yeah.

10 Q. And when he said, "see," was he showing you or holding
11 anything?

12 A. He had put it in his pocket, but he never showed me what
13 it was.

14 Q. What did he do next?

15 A. He walked right past me and went down the stairs.

16 Q. Out?

17 A. Out the door.

18 Q. Did you watch where he went?

19 A. No.

20 Q. Did you see Wane that day, or Junior?

21 A. Yes.

22 Q. Where did you see Wane?

23 A. They were together. Terrill pulled up in the car with
24 Wane.

25 Q. And did Wane come inside?

1 A. No.

2 Q. Do you know if they left together?

3 A. No, not that I know of.

4 Q. Ms. Harris, do you remember when you learned that
5 Jennifer Jeffrey had died?

6 A. Yes.

7 Q. Do you know when that was?

8 A. Facebook post.

9 Q. Do you know either what dates or when it was in relation
10 to when the bodies were found?

11 A. No, I don't remember the date to be exact, no.

12 Q. And did you ever meet Jen's son, Tone Tone?

13 A. Yes.

14 Q. Where was that?

15 A. At my grandmother's house. He --

16 Q. Once or more than once?

17 A. Yes, more than once. But the first time I really
18 encountered him was at my grandmother's house.

19 Q. Around that time when you learned that they had died, do
20 you know where the Defendant was living?

21 A. With Kizzy, if I'm not mistaken.

22 Q. And did Kizzy live down the street from you in Cambridge?

23 A. It's an apartment complex, so it was like, I live at 502,
24 she live at 618 or 620, something like that. So it would be,
25 like, the next block over, but yes, it's down the street.

1 Q. After the Defendant was arrested, do you remember having
2 a telephone call with him while he was detained at the
3 detention center?

4 A. Yes.

5 **MR. BUDLOW:** Your Honor, at this time I would ask
6 the members of the jury and counsel to pull out the exhibit
7 binders and take a look at 6.12T for identification purposes.
8 And I'm going to --

9 **THE COURT:** So this is Exhibit 6.12T, which was the
10 tape that will be -- recording that will be placed into
11 evidence, and 6.12T is the transcript for identification only.

12 **MR. BUDLOW:** At this time, Your Honor, momentarily I
13 will play 6.12.

14 **THE COURT:** All right. Give them time to get it.
15 Just wait a second, Mr. Budlow. All right. If everybody has
16 been able to find it there in their books, just give everyone
17 a minute here.

18 All right. With that, I think we're ready, and you may
19 proceed, Mr. Budlow.

20 (Recording played but not reported.)

21 **BY MR. BUDLOW:**

22 Q. Ms. Harris, do you recognize the voices?

23 A. Yes.

24 Q. Whose voices did you hear?

25 A. Me and Poo's.

1 Q. All right. Did you also talk to Tony while he was locked
2 up sometime on June the 7th, 2015?

3 A. Yes.

4 Q. And during your call with Tony, did he relay a message to
5 you from the Defendant?

6 A. Yes.

7 Q. And did that message relate to Kiara?

8 A. Yes.

9 **MR. BUDLOW:** Your Honor, I'd ask that we now turn to
10 Exhibit 6.13T for identification?

11 **THE COURT:** All right. Government's 6.13 will come
12 into the evidence, the recording, and the transcripts again,
13 is for identification only to assist the jury.

14 (Recording played but not reported.)

15 **BY MR. BUDLOW:**

16 Q. Could you identify the voices on that call, please?

17 A. Yes.

18 Q. Who is that?

19 A. Tony Harris and myself.

20 Q. Did you hear the message that he gave you from the
21 Defendant?

22 A. Yes.

23 Q. Did you tell Kiara to throw her phone away?

24 A. Yes.

25 Q. You relayed that message to her?

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes.

4 Q. I want to draw your attention to around Valentine's Day
5 2016. Did the Defendant come to your house?

6 A. Yes.

7 Q. How do you remember it was -- was it on Valentine's Day?

8 A. It might have been a couple days -- a day after because
9 -- no, it was the 16th.

10 Q. Do you remember what you were doing when he came over?

11 A. Getting ready to go on my date.

12 Q. With who?

13 A. My children's -- my children's father.

14 Q. Tell the members of the jury what happened when the
15 Defendant came to your house.

16 A. He had been drinking and he came and sat down at the
17 table, and I sat across from him.

18 Q. Let me stop you. How do you know he had been drinking?

19 A. He had alcohol in his hand.

20 Q. And was there anything else about him? In other words,
21 anything in your observations that made you think he had been
22 drinking?

23 A. You could smell the alcohol on him. He was -- the bottle
24 was open. It wasn't for me.

25 Q. So you said you walked in and sat down. Did you go to

1 the door or did he just come in?

2 A. He came in.

3 Q. And where were you when he came in?

4 A. I either was leaving out or I was already in the living
5 room. I don't remember exactly what I was doing, but...

6 Q. Remember to keep your voice --

7 A. I'm sorry.

8 Q. -- sort of aimed towards the microphone.

9 A. I either was leaving out or was in the living room. I
10 don't remember exactly what I was doing, but we ended up at
11 the table talking.

12 Q. Was anyone else in the house at the time?

13 A. The kids were in the back. My baby --

14 Q. Okay. Tell the members of the jury what happened next.

15 A. Andre sat down, we were taking, and then he said that he
16 keep having dreams.

17 **THE COURT:** Keep your voice up into the microphone,
18 please.

19 **THE WITNESS:** Andre had sat down at the table and
20 said he kept having dreams, and I was like, "What dreams?"
21 And he said he had a dream of Jennifer grabbing his nuts.

22 **BY MR. BUDLOW:**

23 Q. What did you say to him?

24 A. I was like, "Why are you having that dream?" I was like,
25 "You said as if you killed her," and that's when he started

1 crying, and he said he did. And I said, "In order for you to
2 do something like that, you would have to be a monster," and
3 then he continued to cry.

4 Q. What did he say after you told him he would have to be a
5 monster?

6 A. He really didn't say nothing. He just cried. You know,
7 he was like, "I did it."

8 Q. How many times did he say, "I did it"?

9 A. Like, three times. Then he put his hands like this, you
10 know, because the bottle was in front of him. He did his
11 hands like this (indicating).

12 Q. And when you say, "He put his hands like this," I could
13 barely see because of the screen, what did he do?

14 A. Like, this over his face (indicating).

15 Q. And did he put his head down?

16 A. Yeah.

17 Q. Did he ever use the word "kill"?

18 A. Yeah, it -- yes.

19 Q. And what did he say?

20 A. He said, "I killed her."

21 Q. What was his emotional state when he was telling you
22 this?

23 A. He had been drinking, but he was fine.

24 Q. What did you do after he told you that?

25 A. I got up from the table and I left out the house and -- I

1 was upset and I walked -- it's two flights of steps, so I walk
2 down the stairs, and I got into the car. And my baby's father
3 asked me what was wrong. And I told him, "Nothing. Don't
4 worry about it," like, brushed it off as if it was nothing.

5 Q. Do you know why he asked you what was wrong?

6 A. Because he could clearly see I was upset.

7 Q. And how were you showing that you were upset, do you
8 know?

9 A. Because I was crying.

10 Q. Did you see the Defendant the next day?

11 A. Yes.

12 Q. Did you bring up this conversation?

13 A. Yes.

14 Q. Tell the members of the jury about that, please.

15 A. I was like? "Do you remember what you said to me last
16 night?" And he was like, "No." And then I told him what he
17 said to me, and he just looked at me and just brushed it off,
18 so I brushed it off.

19 Q. When you said he just looked at you and he brushed it
20 off, did he say anything?

21 A. He was like, "I didn't say that."

22 Q. And did you say anything back?

23 A. I said, "That's what you told me."

24 Q. Over that summer of 2016, did you notice any change in
25 the Defendant's behavior?

1 A. Yes.

2 Q. How so?

3 A. He became a monster.

4 Q. What about in terms of his emotional state?

5 A. He was just not his self.

6 Q. Prior to June 5th, 2015, when had you seen him cry last?

7 A. I've never really seen him emotional. Then that upcoming
8 year, like --

9 Q. That summer, did you ever see him crying again?

10 A. No, not really.

11 Q. Prior to the Defendant telling you about his dreams about
12 Jen, had he previously told you about nightmares?

13 A. No.

14 Q. In the years that you knew the Defendant, did he ever
15 tell you he had an issue with recurring bad dreams or
16 nightmares?

17 A. No.

18 Q. And you said that you were close with the Defendant; is
19 that right?

20 A. Yes.

21 Q. Has he or anyone in the family ever told you that he was
22 sexually abused as a child?

23 A. Never.

24 Q. Or that sexual abuse was causing him nightmares?

25 A. Never.

1 Q. Did someone before today ask you about your knowledge of
2 the supposed sexual abuse?

3 Yes or no? Sorry.

4 A. Yes.

5 Q. Who was that?

6 A. Some man named Mike that came to the house to speak
7 with --

8 Q. And did he tell you he was a Defense investigator?

9 A. He was working for Poo's team, yes.

10 Q. How many times did Mike come to your house?

11 A. Like five.

12 Q. And you also spoke to Ms. Whalen on the telephone; didn't
13 you?

14 A. Yes.

15 Q. Now, let's get back to Mr. MaGee, did he tell you his
16 personal beliefs about this case?

17 A. Yes.

18 Q. What did he tell you about your personal beliefs --

19 **MR. PURPURA:** Objection.

20 **THE COURT:** Sustained.

21 **BY MR. BUDLOW:**

22 Q. Did he tell you --

23 **MR. PURPURA:** Objection.

24 **MR. BUDLOW:** I didn't --

25 **THE COURT:** He hasn't finished the question yet.

1 Phrase the question, Mr. Budlow.

2 **BY MR. BUDLOW:**

3 Q. Yes. Did he tell you --

4 **THE COURT:** First of all, Defense investigator, what
5 is the name of this person?

6 **MR. BUDLOW:** Mike is what the witness described him
7 as.

8 **BY MR. BUDLOW:**

9 Q. Does Mike MaGee sound familiar, Ms. Harris?

10 A. Yes.

11 **THE COURT:** I'm sorry, what is the last name?

12 **MR. BUDLOW:** MaGee, but I don't know the spelling.

13 **THE COURT:** All right. Okay.

14 **MR. BUDLOW:** Counsel, could you help with the
15 spelling?

16 **THE COURT:** All right. Go ahead, Mr. Budlow.

17 **BY MR. BUDLOW:**

18 Q. Did Mike tell you about his interviews with others?

19 A. Yes.

20 Q. And was this during a meeting when you were telling him
21 that the Defendant had --

22 **MR. PURPURA:** Objection. Objection. This is direct
23 examination 611C, and it's hearsay.

24 **MR. BUDLOW:** I asked when it occurred.

25 **THE COURT:** Just --

1 **MR. PURPURA:** He's testifying.

2 **THE COURT:** All right. The witness can go out in
3 the hallway for a second here.

4 And ladies and gentlemen, you all can go into the jury
5 room, and I'll address this now and see if you can come back.
6 We'll be finished for the day here with you.

7 (Witness exits stand.)

8 (Jury exits courtroom 4:31 p.m.)

9 **THE COURT:** All right. Mr. Budlow, if you will just
10 proffer in terms of this line of questioning what you're going
11 to ask this witness, and then I'll hear from the -- deal with
12 the objections.

13 **MR. BUDLOW:** Yes, Your Honor. And with the Court's
14 permission, I'll proffer also what I had asked that was
15 sustained, but just so you have the context, not that I plan
16 on going back.

17 **THE COURT:** Okay. That's fine. Go ahead.

18 **MR. BUDLOW:** The witness would testify that on,
19 approximately, five occasions Mr. MaGee came to her house, and
20 she let him in, and she willingly sat for an interview. And
21 that he told her, after she had told him about these
22 confessions, he told her one that he believed that the
23 Defendant was innocent.

24 Two, that he had personally interviewed the leader of BGF
25 who told him that he had greenlit the murders, and I use the

1 term greenlit because we use it --

2 **THE COURT:** Okay. I understand.

3 **MR. BUDLOW:** I'm not saying the witness said
4 greenlit to me. That's the first thing she said.

5 She also said that the Defendant -- she asked the
6 Defendant questions about whether or not she was aware of his
7 sexual abuse as a child.

8 **THE COURT:** The investigator asked Ms. Harris
9 whether she was aware of any sexual abuse of the Defendant
10 when he was a child?

11 **MR. BUDLOW:** Yes. And whether or not the nightmares
12 that he had were related to that.

13 **THE COURT:** Okay.

14 **MR. BUDLOW:** Let me make sure that that's -- yeah,
15 that's it. The personal beliefs, the statements of other
16 witnesses, not necessarily accurate.

17 **THE COURT:** Well, first of all, so you're clear, the
18 matter of Mr. MaGee, apparently, he's been represented as an
19 investigator for the Defense team. His expression of his own
20 personal belief is clearly not admissible here.

21 It is of no relevance as to what his personal belief is,
22 first under 401, and secondarily it will be highly prejudicial
23 under Rule 403.

24 So you cannot inquire of this witness and have her state
25 that Mr. MaGee opined his own personal belief as to the guilt

1 or innocence of the Defendant.

2 As to the matter of inquiring specifically as to gang
3 membership and the matter of inquiring as to her knowledge or
4 lack thereof of any sexual abuse, I'll be glad to hear from
5 the Defendant -- Defense Counsel on that.

6 **MR. PURPURA:** Just one second.

7 **THE COURT:** That's what I understand. The proffer
8 is as to the matter of gang membership. She replied in the
9 negative in terms of any knowledge of that. Correct?

10 **MR. BUDLOW:** No, I don't think she was asked about
11 gang membership. She says that she was told by the
12 investigator that BGF is responsible for killing the victims
13 in this case because the Defense investigator personally
14 interviewed -- the leader of BGF told him that he authorized
15 --

16 **THE COURT:** Well that's not going to be admissible
17 either in terms of that's clearly hearsay. Not only can he
18 not opine in terms of the guilt or innocence of the Defendant,
19 but we're not going to have her summarize what he stated in
20 terms of his investigation in terms of any drug -- any gang
21 membership.

22 With respect to the inquiry as to the matter of child
23 abuse, that's a matter about which she would have knowledge,
24 and I'll be glad to hear from you, Mr. Purpura, but your
25 objection is --

1 **MR. PURPURA:** If that was the only question, I have
2 no objection.

3 **THE COURT:** Okay. All right. Well, then she can
4 certainly go into that.

5 Mr. Budlow, you can't go -- first of all, you cannot go
6 into the investigator making comments and making
7 representations. She did not adopt those comments, and
8 there's merely that investigator's viewpoint, and we're not
9 going to have that filtrate here into the courtroom, and it's
10 no basis for it. You can indicate that he asked her various
11 questions and that she replied in the negative in terms of her
12 -- but we're not going to have -- we're not going to have her
13 summarize what the investigator said about his view of gang
14 membership, so that's not going to be admissible.

15 **MR. BUDLOW:** Understood, Your Honor.

16 I would ask to continue along the lines of this, which is
17 hopefully abiding -- definitely abiding by your ruling, not to
18 elicit any of the substance, but to confirm that he did tell
19 personal beliefs without saying what they were --

20 **THE COURT:** No, no. I'm not going to -- we're not
21 going to --

22 **MR. BUDLOW:** Okay. Then two --

23 **THE COURT:** He's not going to be able to -- if
24 you're saying did he give his own personal beliefs as to the
25 Defendant, that's not admissible. It's not relevant in any

1 way, shape, or form. We're not going to get into that one way
2 or the other.

3 **MR. BUDLOW:** Understood.

4 The second point, which I think I know the answer, but
5 I'm going to ask anyway, is that he told her the -- not what
6 they were, but the fact that he conducted interviews and what
7 he learned in those interviews. And the reason the Government
8 is doing this -- and again I'm not going to belabor this -- is
9 that --

10 **THE COURT:** Okay. Fine. He's representing that
11 he's got this information, and he's learned about this from
12 some gang membership involvement; correct?

13 **MR. BUDLOW:** Sure. And, of course, we all know that
14 the Defense investigator shouldn't be providing any
15 information to a witness, but we've already heard about this
16 Defense investigator during the cross-examination of Kiara
17 Haynes. And so they're putting questions out there that
18 this -- that people are stating things to the investigator,
19 but the Defense investigator is going around planting ideas in
20 people's minds.

21 **THE COURT:** I understand that, and that is attacking
22 the Defense strategy and the Defense team. He is not a
23 witness here, so we're not going to have you impeach the --

24 **MR. BUDLOW:** Understood.

25 **THE COURT:** -- the Defense team or bring in the

1 credibility, the credibility of Defense Counsel, including her
2 representing that she spoke with Ms. Whalen. That's placing
3 the opposing counsel's credibility at issue, and we're not
4 going to permit that. But you certainly -- you certainly can
5 question -- and I will make sure she understands when she
6 comes back on the witness stand before the jury comes back
7 that she's not to in any way summarize what he said to her,
8 apparently, in terms of what his representations were that she
9 can say and testify as to his questions about whether or not
10 she has any knowledge of Andre Briscoe ever saying to her that
11 he was abused as a child, and that's certainly a fair line of
12 inquiry, and she can respond in the negative saying, no, she
13 never has heard any of that.

14 **MR. BUDLOW:** And, Your Honor, to be clear --

15 **THE COURT:** Go ahead.

16 **MR. BUDLOW:** -- and I'll be happy for you to
17 instruct, but in terms of the first part related to the
18 Defense investigator, I don't plan on going through that in
19 any way, so...

20 **THE COURT:** All right. Well, I'm going to make sure
21 she understands that when she comes back on the witness stand.

22 **MR. PURPURA:** Again --

23 **THE COURT:** And by the way, if the Defense
24 investigator Mr. MaGee testifies, then that's another matter
25 in terms of --

1 **MR. BUDLOW:** Yes.

2 **THE COURT:** -- his own credibility and -- not only
3 his own credibility, but the matter of his misconduct. And so
4 it's perfectly clear, if Mr. MaGee takes the witness stand,
5 you're going to be able to challenge his credibility, and I'll
6 determine whether or not he's engaged in misconduct or not, so
7 that may or may not end this inquiry, but it isn't going to
8 come through this witness.

9 **MR. BUDLOW:** Understood.

10 **MR. PURPURA:** Judge, respectfully, the entire line
11 of questioning, what the investigator asked or not, is not
12 relevant to her testimony.

13 **THE COURT:** It certainly isn't relevant to this
14 witness, but all I'm saying is if the Defense investigator
15 Michael MaGee is going to be a witness here --

16 **MR. PURPURA:** I agree. I agree.

17 **THE COURT:** All right.

18 **MR. PURPURA:** I agree. If he is, then go at it, but
19 at this point, there should be no questions about what the
20 investigator asked. Nothing.

21 **MR. BUDLOW:** I'm not --

22 **THE COURT:** He's not going to. He's not going to.

23 **MR. BUDLOW:** I'm moving on.

24 **THE COURT:** He's moving on.

25 **MR. BUDLOW:** Including the questions related to

1 sexual abuse.

2 **THE COURT:** Just address the Court, both of you.

3 **MR. BUDLOW:** Yes.

4 **THE COURT:** He's not going to do that. Mr. Budlow
5 understands my instruction. He's going to inquire -- he's
6 going to inquire of the witness as to whether or not there was
7 inquiry by the investigator as to the matter of contentions of
8 sexual abuse as a child. And this witness, apparently, is
9 going to say she's never heard the Defendant ever make
10 comments about being abused as a child. And that's a fair
11 line of inquiry with respect to what's been proffered by the
12 Defense. And this witness can respond to that question, and
13 that's the extent.

14 Mr. Budlow is not going to ask what the investigator said
15 to her, just a line of inquiry.

16 **MR. BUDLOW:** Respectfully, Your Honor, I think I
17 asked that a little earlier of the witness, so I'm not even
18 going to touch it.

19 **THE COURT:** All right. That's fine. That's fine.

20 **MR. BUDLOW:** I'm not going to touch it. If I could
21 take --

22 **THE COURT:** Go ahead. I'm trying to hear what else
23 Mr. Purpura wants to proffer to the Court.

24 **MR. PURPURA:** I don't think -- all of the questions
25 that I did object to in the beginning, and I know the Court

1 didn't really know where --

2 **THE COURT:** Well, I sustained two of them as I
3 recall.

4 **MR. PURPURA:** -- Government's Counsel was going. So
5 I'm asking the Court to strike -- instruct the jury to
6 disregard any comments about what an investigator may or may
7 not have said in this particular case.

8 **THE COURT:** I'm not going to strike -- there's been
9 no answer to it. I sustained the objection. There was no
10 answer to strike.

11 What am I striking? Am I striking the fact the question
12 was asked?

13 **MR. PURPURA:** Yeah, at this point --

14 **THE COURT:** I'm not going to strike that.

15 **MR. BUDLOW:** -- the questions are like evidence.

16 **THE COURT:** I'm not going to strike that. Based
17 upon the proffer of the Government, there is nothing to
18 strike. There was no evidence that came in, and I sustained
19 the objection.

20 **MR. PURPURA:** All right. Thank you, Judge.

21 **THE COURT:** All right. Thank you.

22 **MR. BUDLOW:** If I could just take 30 seconds of the
23 Court's time. My reference to Ms. Whalen was not trying to
24 impugn her credibility, but it was in response to Ms. Whalen's
25 pretty regular questioning of witnesses that they've never

1 talked before, and here was a witness that she --

2 **THE COURT:** We're going to let that go. We're
3 finished. We'll bring the witness back in and we will -- I'll
4 make sure the witness understands this.

5 Is there MaGee -- Mr. MaGee -- we'll deal with that
6 later. I want to deal with this at the end of the day here.

7 **MR. PURPURA:** And, again, you should --

8 **THE COURT:** We'll deal with this later, Mr. Purpura.

9 Ms. Harris, come back up here to the witness stand,
10 please. Thank you very much.

11 (Witness resumes stand.)

12 **THE COURT:** Ms. Harris, we're out of the presence of
13 the jury. I just want to make sure you understand, Mr. Budlow
14 is just going to inquire generally and already has with
15 respect to any inquiry about you ever hearing from
16 Mr. Briscoe, the Defendant, as to any child abuse as a child,
17 okay?

18 **THE WITNESS:** Okay.

19 **THE COURT:** But you are not to in any way talk about
20 what Mr. MaGee, the Defense investigator, said to you.

21 Do you understand?

22 **THE WITNESS:** Okay.

23 **THE COURT:** Nothing that he said to you is to be
24 repeated by you for the jury here.

25 Do you understand that?

1 **THE WITNESS:** Yes.

2 **THE COURT:** All right. With that, I think we're
3 clear and we can bring the jury back in.

4 **THE CLERK:** All rise for the jury.

5 (Jury enters courtroom 4:43 p.m.)

6 **THE COURT:** Thank you all very much.

7 We just have about ten more minutes to go, but I
8 definitely had to deal with an evidentiary issue, so best time
9 for you to leave to deal with that.

10 Again, because of the retrofitting of the Court and the
11 Plexiglas. We really can't have bench conferences up here.

12 So with that, you may continue, Mr. Budlow.

13 **MR. BUDLOW:** Thank you, Your Honor.

14 **BY MR. BUDLOW:**

15 Q. I'm going to move on to that board in front of you,
16 Ms. Harris, which is Government's Exhibit 17.7B.

17 Do you see a guy on there named Junior?

18 A. Yes.

19 Q. Do you know his real name?

20 A. Wane Briscoe.

21 Q. How do you know that?

22 A. That's my cousin.

23 Q. Is it a secret?

24 A. No.

25 Q. What's his father's name?

1 A. Wane Briscoe, Sr.

2 Q. Do you know if the Defendant knows everyone's name on
3 that chart?

4 A. Yes.

5 Q. Not just nicknames, but their real names?

6 A. Yes.

7 Q. Showing you Government's Exhibit 7.4, do you recognize
8 the phone number to the right of the avatar?

9 A. Yes.

10 Q. And whose phone number is that?

11 A. Twin, my Tony. Tony, my twin, sorry.

12 Q. You call him twin as a nickname?

13 A. That's what we call each other, yes.

14 Q. All right. So did you learn that the Defendant was
15 arrested in May or May 26th of 2020?

16 A. Yes.

17 Q. And around that same time, were you interviewed by
18 Special Agent Weaver and a Cambridge Police Department officer
19 last name Dickerson?

20 A. Yes.

21 Q. Were you truthful during your interview with them?

22 A. No.

23 Q. Did you tell them about what the Defendant told you at
24 your kitchen table on Valentines Day?

25 A. No, not in that interview.

1 Q. Say it a little louder, sorry.

2 A. No, not in that interview, no.

3 **MR. PURPURA:** I'm sorry, I couldn't hear you.

4 **THE WITNESS:** No, I did not.

5 **BY MR. PURPURA:**

6 Q. Were you truthful about the dreams?

7 A. No.

8 Q. How so?

9 A. I withheld information from them.

10 Q. Why weren't you truthful during that interview?

11 A. Because that's my -- he's my cousin and family was --
12 like, family always supposed to stick together, and that's
13 what I believe.

14 Q. Was that the only reason you weren't truthful?

15 A. Most of the time, like, out of fear because I have
16 children, and I want to protect mine.

17 Q. Fear of who?

18 A. I mean, Poo.

19 Q. But he had just been --

20 A. He just been locked up, but it's still -- you don't know
21 who everybody knows. You don't know who people know.

22 Q. Did you know how long he would be incarcerated for?

23 A. No, I did not.

24 Q. And so that was May in 2020, right?

25 A. Yes.

1 Q. In July of 2020, did you call Special Agent Weaver on the
2 phone?

3 A. Yes.

4 Q. Where were you when you called him?

5 A. At work, I believe --

6 Q. Why did you call him?

7 A. -- or I was just leaving work.

8 Q. Again, speaking into the microphone, tell the members of
9 the jury why you called Special Agent Weaver in July of 2020.

10 A. I was just leaving work or I was at work and then, I
11 believe, I had to call him back. I don't remember how it was,
12 but I know I called. And it was just this feeling that -- I
13 had, like, a strange feeling, a baby scent, a laugh that just
14 kept occurring, and something just told me to call him.

15 Q. You said a baby scent and a laugh?

16 A. Yeah, like, a baby laugh.

17 Q. Why did that cause you to call Special Agent Weaver?

18 A. Because I have a little boy, and I was just thinking
19 about my son. You know, Troy is 14. And all I could think
20 about is my children.

21 Q. Did your son know Tone Tone?

22 A. Yes.

23 Q. And do you remember when they met?

24 A. At my grandmother's house.

25 Q. So what did you do when you -- you said you wanted to

1 call Agent Weaver; did you?

2 A. Yes.

3 Q. And how did you have his number?

4 A. He had gave it to me on a piece of Post-It paper.

5 Q. What did you tell Special Agent Weaver?

6 A. I told him I lied to him. I wasn't truthful when he
7 interviewed me, and I wanted to just be truthful now.

8 Q. Did you have a longer telephone call with him later that
9 evening?

10 A. Yes.

11 Q. And did you ultimately testify in Grand Jury?

12 A. Yes, I did.

13 Q. So the day that you're at work and you had the baby smell
14 and you called Special Agent Weaver, did you know that that
15 day was Tone Tone's birthday?

16 A. Not until he told me.

17 **MR. BUDLOW:** Thank you, Ms. Harris.

18 That's all I have, Your Honor.

19 **THE COURT:** Thank you very much, Mr. Budlow.

20 Cross-examine, Mr. Purpura?

21 **MR. PURPURA:** Judge, it's 11 minutes to 5:00, do you
22 want me to start now or do you want to call it a day?

23 **THE COURT:** We can -- that's probably an appropriate
24 point to stop.

25 All right. Ms. Harris, you should not discuss your

1 testimony with anyone until tomorrow morning when you return
2 to the witness stand. We're going to make every effort to
3 start promptly at 9:30 tomorrow, and so you should not discuss
4 your testimony with anyone until you come back on the witness
5 stand.

6 Do you understand that?

7 **THE WITNESS:** Yes.

8 **THE COURT:** Thank you very much.

9 **THE WITNESS:** You're welcome.

10 **THE COURT:** I just need to go over a few things with
11 counsel here, so you'll be excused. Thank you very much.
12 We'll wait for you to exit the courtroom here.

13 Thank you.

14 (Witness exists stand.)

15 **THE COURT:** All right. Ladies and gentlemen, with
16 that, we'll be concluding -- we're going to get started
17 promptly at 9:30 tomorrow, and we're going to take a shorter
18 lunch break sometime. We won't take quite a whole hour and
19 Ms. Tee's restaurant is open downstairs; is it not?

20 **THE CLERK:** Yes, Your Honor.

21 **THE COURT:** Okay. So you can get sandwiches
22 downstairs, but we have a little bit of a quicker window for
23 lunch tomorrow. And then around 3:15, we're going to have to
24 stop because I've got, you know, a wedding rehearsal in the
25 evening, I apologize.

1 I'm going to go over some scheduling matters now with
2 counsel. So with that, you all are excused. Thank you very
3 much.

4 (Jury exits courtroom 4:50 p.m.)

5 **THE COURT:** Okay. With that, what do we project
6 tomorrow?

7 Mr. Purpura, how long do you think you'll be with Tonya
8 Harris on cross-examination.

9 **MR. PURPURA:** Probably about 45 minutes.

10 **THE COURT:** Okay. All right. And then what are the
11 next witnesses for the Government, Ms. Brusca?

12 **MS. BRUSCA:** Thank you, Your Honor. We have --

13 **THE COURT:** Keep your voice up, if you will. I'm
14 sorry.

15 **MS. BRUSCA:** Sure, Your Honor.

16 We have Agent Kelly from the FBI, possibly Agent Will
17 Filbert from the FBI. Who else? Jeremy Monkers from BPD. I
18 think I'm doing it out of order. I think it will be reversed.
19 And we think that's probably it.

20 **THE COURT:** So you're going to have three more
21 witnesses after Ms. Harris finishes. So it's anticipated that
22 we'll have cross-examination of Ms. Harris. You'll put these
23 other three witnesses, cross-examination, obviously, and then
24 the Government will rest.

25 And then we will deal with any Rule 29 motions, Mr.

1 Purpura. And we may or may not get to the Rule 29 motions
2 today -- I mean, tomorrow. We'll have to wait and see.

3 And then we would then proceed with the Defense case
4 starting Monday. That's basically the schedule that I can
5 see.

6 Does that sound right to the Government?

7 **MS. BRUSCA:** Yes, Your Honor.

8 **THE COURT:** Hopefully we can get witness testimony
9 finished, and we may not deal with Rule 29 motions until
10 Monday morning. We'll just have to wait and see.

11 **MR. PURPURA:** Judge --

12 **THE COURT:** Mr. Purpura, yes.

13 **MR. PURPURA:** I was going to tell you the
14 cross-examination of the last three witnesses will be very
15 short.

16 **THE COURT:** Okay. So it looks like --

17 **MR. PURPURA:** There may be no cross at all.

18 **THE COURT:** So we will get to Rule 29 motions, which
19 means that you will need to be ready with any Defense
20 witnesses you want to call tomorrow, Mr. Purpura.

21 **MR. PURPURA:** I don't think -- we can't, and the
22 reason we can't be ready tomorrow is because the Government
23 said they were going to finish -- up until this morning or
24 today --

25 **MR. BUDLOW:** Yesterday.

1 **MR. PURPURA:** -- today, because I was happy today
2 you told me. You anticipated finishing today, Mr. Budlow.
3 And you suggested -- and so they've been telling us Monday
4 they'd finish. We just don't have the witnesses in line.

5 **THE COURT:** All right. Well, what we're going to do
6 then is we'll use that time, since we're going to stop a
7 little bit earlier tomorrow because of my commitment for a
8 wedding rehearsal -- not my wedding rehearsal. I'm presiding
9 over a wedding. We're smiling here. That we will finish with
10 the case. We'll clearly have Rule 29 motions, we'll be ready
11 on the Rule 29 motions. And we will then proceed with the
12 Defense case as of Monday morning.

13 Now, you will have witnesses ready on Monday, okay?

14 **MS. WHALEN:** Yes.

15 **THE COURT:** And with respect to the Defense here on
16 that, I would -- if you'll stand, Mr. Briscoe. I always make
17 sure the record is clear. We have plenty of time to talk
18 about this. You have a privilege -- you are not to respond to
19 me in any way, sir. I'm just trying to make sure that you're
20 understanding what I'm going to say to you. You have a
21 privilege against self-incrimination under the Fifth
22 Amendment. And in the event that a witness -- no one -- the
23 Government cannot call you as a witness. I cannot call you as
24 a witness, nor can any inference be drawn against you when --
25 there is an instruction that I specifically give the jury in

1 the event that a Defendant does not testify, advising them
2 that they should not consider in any way the fact that a
3 Defendant did or did not testify or put on any evidence, and I
4 explained to the jury that the burden is always upon the
5 prosecution to prove guilt beyond a reasonable doubt, and that
6 burden never shifts to a criminal defendant.

7 The burden is never upon a criminal defendant to prove
8 his innocence, the burden is always upon the Government to
9 prove guilt beyond a reasonable doubt. I want to make sure
10 you understand that, because you have plenty of time to think
11 about whether you're going to testify or not, and I'm trying
12 to make sure that you -- your lawyers have worked very hard on
13 this case, and we have plenty of time to think about this, but
14 I just want to make sure that we start early with that
15 consideration. This is not something that is forced upon you
16 at the last minuet, and I try to make sure that a defendant
17 has plenty of time to think about it so the record is clear in
18 that regard.

19 Is there anything else from the point of view of the
20 Government on this matter, Ms. Brusca, on any matter right
21 now?

22 **MS. BRUSCA:** No, Your Honor. I just was going to
23 ask because I haven't done it in front of Your Honor before.
24 Rule 29, we're going to make orally.

25 **THE COURT:** Yes, the Defense makes an oral motion.

1 You do not need -- you know --

2 **MS. BRUSCA:** Good. Thank you.

3 **THE COURT:** -- and the Government responds, and you
4 can respond in argument. You don't need to submit memoranda,
5 that's fine. And I'll be ready to deal with that. And
6 obviously, you know, as is clearly understood here in terms of
7 under a Rule 29 motion, pursuant to Rule 29(c)(1)(3), the
8 Defendant is not required to move for a judgment of acquittal
9 at the conclusion of the Government's case and may await a
10 jury verdict, but the standard is if, upon view of the
11 evidence in the light most favorable to the Government, any
12 rational trier of facts could find the Defendant guilty beyond
13 a reasonable doubt, that standard having been set by the
14 Fourth Circuit in *United States versus Tresvant*,
15 T-r-e-s-v-a-n-t, at 677 F.2nd 1018, a Fourth Circuit opinion
16 in 1982, and having been reiterated numerous times since then,
17 including the *Wolfson* case in 1997 at 115 F.3rd 1185. So that
18 will be the schedule for tomorrow.

19 Is there anything further from the point of view of the
20 Government?

21 **MS. BRUSCA:** No, Your Honor.

22 **THE COURT:** Anything further from the point of view
23 of the Defense?

24 **MS. WHALEN:** No. Thank you, Your Honor.

25 **THE COURT:** All right. I just would like to clarify

1 one matter here, if I can. I want to make sure Mr. Purpura
2 has time on this.

3 **MR. PURPURA:** I'm sorry?

4 **THE COURT:** I'm just trying to clarify in terms of
5 the evidentiary issue that we address, and I have addressed
6 here. The Defense investigator is named Michael MaGee,
7 M-a-G-e-e; is that correct?

8 **MR. PURPURA:** That's correct.

9 **THE COURT:** And is he -- he's not an employee of the
10 Public Defender's Office; is he?

11 **MR. PURPURA:** He's not. He's an ex-Baltimore City
12 police officer.

13 **THE COURT:** He's a former Baltimore City police
14 officer, who was apparently retained by Defense Counsel in
15 terms of conducting an investigation; is that right?

16 **MS. WHALEN:** That's correct.

17 **THE COURT:** All right. Okay. I just want to make
18 sure the record is clear on that in the event that I follow up
19 on any of this at a later date.

20 So with that, this matter is -- this matter is concluded
21 and we now stand adjourned for the day, and I'll see you all
22 tomorrow. We'll start at 9:30.

23 **THE CLERK:** All rise. Court stands adjourned.

24 (Court adjourned at 4:56 p.m.)
25

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K E Y

K. = Kester

K.B. = Kester Brown

K.B., III = Kester Brown, III

REPORTER NOTE: Quotation marks are used for clarity and do not necessarily reflect a direct quote.

I, Melissa L. Clark, RPR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

_____/S/_____
 Melissa L. Clark
 Official Court Reporter

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